# Tennessee Code Annotated

## *2021 Supplement*

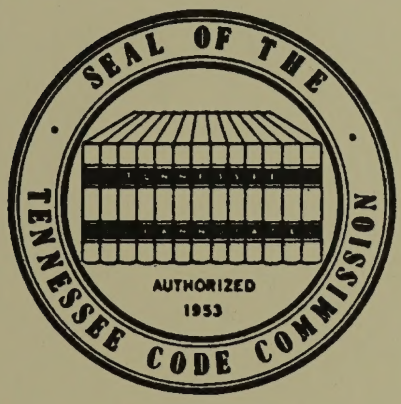
Updated through the 2021 First Extraordinary and
2021 Regular Sessions of the General Assembly

## Volume 10B

***2018 Replacement***

**THE OFFICIAL TENNESSEE CODE**

Prepared Under the Supervision of the
Tennessee Code Commission




Chief Justice Jeffrey S. Bivins, Chair
Anastasia P. Campbell
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Justice Cornelia A. Clark
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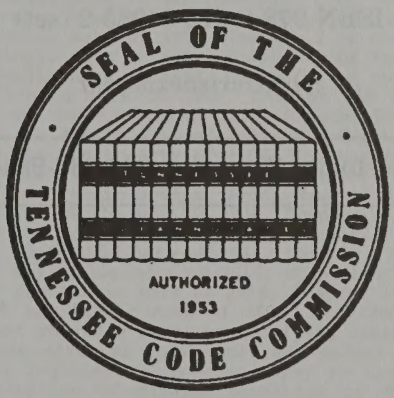


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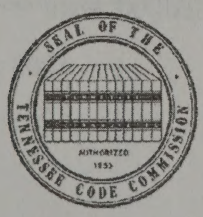
CERTIFICATE OF TENNESSEE CODE COMMISSION

I, Paige A. Seals, Executive Secretary of the Tennessee Code Commission, acting by authority of the Commission and pursuant to Section 1-1-110 of Tennessee Code Annotated, hereby certify that the Tennessee Code Commission has approved the manuscript of the Tennessee Code as contained in this pocket supplement and the companion pocket supplements; that the text of each section of the statutes of Tennessee printed or appearing in this and the companion pocket supplements has been compared with the original statute as published in the printed Public Acts; and the text of the Code sections codifying the Public Acts of 1955, 1957, 1959, 1961, 1963, 1965, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004 2005, 2006, 2007 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020 and 2021 is a true and correct copy of the codification of the Public Acts of 1957, 1959, 1961, 1963, 1967, 1968 and 1969, Chapter 354 of the Public Acts of 1970, Chapter 1 of the Public Acts of 1971, Chapter 441 of the Public Acts of 1972, Chapter 1 of the Public Acts of 1973, Chapter 414 of the Public Acts of 1974, Chapter 1 of the Public Acts of 1975, Chapter 382 of the Public Acts of 1976, Chapter 1 of the Public Acts of 1977, Chapter 496 of the Public Acts of 1978, Chapter 1 of the Public Acts of 1979, Chapter 444 of the Public Acts of 1980, Chapter 1 of the Public Acts of 1981, Chapter 543 of the Public Acts of 1982, Chapter 1 of the Public Acts of 1983, Chapter 483 of the Public Acts of 1984, Chapter 2 of the Public Acts of 1985, Chapter 523 of the Public Acts of 1986, Chapter 786 of the Public Acts of 1986, Chapter 4 of the Public Acts of 1987, Chapter 458 of the Public Acts of 1988, Chapter 5 of the Public Acts of 1989, Chapter 668 of the Public Acts of 1990, Chapter 28 of the Public Acts of 1991, Chapter 528 of the Public Acts of 1992, Chapter 1 of the Public Acts of 1993, Chapter 543 of the Public Acts of 1994, Chapter 1 of the Public Acts of 1995, Chapter 554 of the Public Acts of 1996, Chapter 1 of the Public Acts of 1997, Chapter 574 of the Public Acts of 1998, Chapter 235 of the Public Acts of 1999, Chapter 574 of the Public Acts of 2000, Chapter 52 of the Public Acts of 2001, Chapter 491 of the Public Acts of 2002, Chapter 1 of the Public Acts of 2003, Chapter 437 of the Public Acts of 2004, Chapter 1 of the Public Acts of 2005, Chapter 507 of the Public Acts of 2006, Chapter 1 of the Public Acts of 2007, Chapter 607 of the Public Acts of 2008, Chapter 2 of the Public Acts of 2009, Chapter 624 of the Public Acts of 2010, Chapter 41 of the Public Acts of 2011, Chapter 582 of the Public Acts of 2012, Chapter 1 of the Public Acts of 2013, Chapter 530 of the Public Acts of 2014, Chapter 27 of the Public Acts of 2015, Chapter 569 of the Public Acts of 2016, Chapter 30 of the Public Acts of 2017, Chapter 536 of the Public Acts of 2018, Chapter 1 of the Public Acts of 2019, Chapter 518 of the Public Acts of 2020, and Chapter 33 of the Public Acts of 2021, and that the Code sections codifying other Public Acts of 2021, are not a part of the official Code until and unless their codification is enacted by subsequent legislation; however, they are correctly and accurately copied, with the exception of changes permitted by Section 1-1-108 of the Tennessee Code Annotated, and with the exception of changes made necessary due to repeal by implication and amendments by implication.

IN WITNESS WHEREOF, we have hereunto set our hand and seal of the Tennessee Code Commission, this 15th day of July, 2021.




Paige A. Seals
Executive Secretary
Tennessee Code Commission

STATE OF TENNESSEE
DEPARTMENT OF STATE

I, Tre Hargett, Secretary of State of the State of Tennessee, do hereby certify that Chapter 1 of the Public Acts of the 80th General Assembly, of the 81st General Assembly, of the 82nd General Assembly, of the 83rd General Assembly, of the 84th General Assembly, and of the 85th General Assembly; that Chapters 1 and 354 of the 86th General Assembly; that Chapters 1 and 441 of the 87th General Assembly; that Chapters 1 and 414 of the 88th General Assembly; that Chapters 1 and 382 of the 89th General Assembly; that Chapters 1 and 496 of the 90th General Assembly; that Chapters 1 and 444 of the 91st General Assembly; that Chapters 1 and 543 of the 92nd General Assembly; that Chapters 1 and 483 of the 93rd General Assembly; that Chapters 2, 523 and 786 of the 94th General Assembly; that Chapters 4 and 458 of the 95th General Assembly; that Chapters 5 and 668 of the 96th General Assembly; that Chapters 28 and 528 of the 97th General Assembly; that Chapters 1 and 543 of the 98th General Assembly; that Chapters 1 and 554 of the 99th General Assembly; that Chapters 1 and 574 of the 100th General Assembly; that Chapters 235 and 574 of the 101st General Assembly; that Chapters 52 and 491 of the 102nd General Assembly; that Chapters 1 and 437 of the 103rd General Assembly; that Chapters 1 and 507 of the 104th General Assembly; that Chapters 1 and 607 of the 105th General Assembly; that Chapters 2 and 624 of the 106th General Assembly; that Chapters 41 and 582 of the 107th General Assembly; Chapters 1 and 530 of the 108th General Assembly; that Chapters 27 and 569 of the 109th General Assembly; that Chapters 30 and 536 of the 110th General Assembly; that Chapters 1 and 518 of the 111th General Assembly; and that Chapter 33 of the 112th General Assembly of the State of Tennessee, all of which are incorporated in this and the companion volumes, are true and correct copies of the originals on file in my office and have been transmitted to the Tennessee Code Commission for publication.

IN WITNESS WHEREOF, I have hereunto affixed my signature and the Great Seal of the State of Tennessee at Nashville, on the 15th day of July, 2021.

Tre Hargett
Secretary of State

# Preface

This supplement contains the official version of material supplementing the Tennessee Code Annotated, Official Edition, as previously enacted, and new and amendatory laws of a general and permanent nature enacted in the 2021 First Extraordinary Session and the 2021 Regular Session of the 112th General Assembly. It was prepared by the editorial staff of the publisher with the assistance of Paige A. Seals, Revisor of Statutes and Executive Secretary for the Tennessee Code Commission.

Information about the Code and suggestions for its use may be found in the User's Guide, a version of which appears in each volume.

Please note: (1) Tennessee Code Annotated section designations assigned to 2021 acts by the General Assembly may have been changed by the Tennessee Code Commission pursuant to § 1-1-108; and (2) under Tenn. Const., art. II, § 24, laws requiring the expenditure of state funds may be null and void unless first-year funding is approved in the year in which the law is passed.

This supplement contains annotations from decisions posted to Lexis Advance through April 15, 2021. Annotations are taken from decisions or articles that appear in the following traditional sources:

South Western Reporter, 3d Series
Supreme Court Reporter
Federal Reporter, 3d Series
Federal Supplement, 2d Series
Bankruptcy Reporter
Opinions of the Attorney General
Tennessee Bar Journal
Tennessee Law Review
University of Memphis Law Review
Vanderbilt Law Review

Suggestions, comments, or questions about the Tennessee Code Annotated are always welcome. You may call us toll free at (800) 833-9844, email us at customer.support@lexisnexis.com, or write Tennessee Editor, LexisNexis, 9443 Springboro Pike, Miamisburg, OH 45342.

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August 2021 LexisNexis

# TENNESSEE CODE ANNOTATED

# TITLE 57

# INTOXICATING LIQUORS

Chapter
2. Local Option—Manufacture Only.
3. Local Option—Traffic in Intoxicating Liquors.
Part 1. General Provisions
Part 2. Licenses and Fees
Part 3. Taxes
Part 4. Prohibited Acts — Enforcement
Part 7. Employee and Server Permits
Part 8. Sale of Wine in Retail Food Stores
Part 11. Tennessee Wine and Grape Board
4. Consumption of Alcoholic Beverages on Premises.
Part 1. General Provisions
Part 2. Administration, Enforcement, Prohibited Acts
Part 3. Taxes and Fees
5. Beer.
Part 1. General Provisions
Part 2. Taxation
Part 6. Tennessee Responsible Vendor Act of 2006

## CHAPTER 1

## ALCOHOLIC BEVERAGE COMMISSION

## PART 1

## COMMISSION CREATION, MEMBERSHIP, AND EMPLOYEES

### 57-1-102. Alcoholic beverage commission created — Appointment.

**Compiler's Notes.**

The alcoholic beverage commission created by this section, terminates June 30, 2027. See §§ 4-29-112, 4-29-248.

## CHAPTER 2

## LOCAL OPTION—MANUFACTURE ONLY

Section
57-2-102. [Repealed.]
57-2-103. Manufacturing of intoxicating liquors — Petition — Election.
57-2-104. Possession, storage or transportation by manufacturer lawful — Rights limited.

## 57-2-102. [Repealed.]

**History.**

Acts 1937, ch. 193, § 1; C. Supp. 1950, § 6648.1; impl. am. Acts 1959, ch. 9, § 14; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A. (orig. ed.), § 57-102; repealed by Acts 2019, ch. 301, § 1, effective May 8, 2019.

**Compiler's Notes.**

Former § 57-2-102 concerned privilege taxes on manufacturer — license.

## 57-2-103. Manufacturing of intoxicating liquors — Petition — Election.

(a) The county legislative body of any county shall have the right and power, and such county authorities shall have the duty, to call and direct the county election commission to hold an election at any time, upon the filing and presentation of a petition bearing the genuine signatures of ten percent (10%) or more of the qualified voters of such county, based upon the number of votes cast in the last preceding presidential election in such county. Such petition shall be addressed to the county legislative body, and shall contain such language as to request, or to call upon the county legislative body, to call an election of the qualified voters of the county upon the question of permitting and legalizing the manufacture of intoxicating liquors and other intoxicating drinks within the boundaries of the county.

(b) Upon the adoption of a motion or resolution by the county legislative body directing the holding of an election, the county clerk shall file a certified copy of the motion or resolution with the county election commission.

(c) If a majority of the qualified votes cast in such election, in a county so holding an election, favors the manufacture of intoxicating liquors or other intoxicating drinks, as herein provided, in that event, it shall be lawful to manufacture intoxicating liquors and/or intoxicating drinks within the boundaries of such county.

(d)(1) Notwithstanding subsections (a)-(c), it shall be lawful to manufacture intoxicating liquors or intoxicating drinks, or both, within the boundaries of:

(A) A municipality if both retail package sales and consumption of alcoholic beverages on the premises have been approved through referendum of voters within such municipality;

(B) A municipality that has approved consumption of alcoholic beverages on the premises within the municipality by local option election and that is located in a county having a population of not less than forty-eight thousand five hundred (48,500) and not more than forty-eight thousand six hundred (48,600), according to the 2010 federal census or any subsequent federal census;

(C) The unincorporated areas of a county, or a municipality which has a population of less than one thousand (1,000) persons in such county, if any jurisdiction located within such county has approved retail package sales through referendum of voters and any jurisdiction located within such county has approved consumption of alcoholic beverages on the premises through referendum of voters or if the county is included in the Tennessee River resort district as defined in § 57-4-102 and retail package sales have been approved through referendum by the voters in any jurisdiction within such county;

(D) Any municipality authorized under § 57-4-102(28) to allow facilities or establishments in such municipality to sell alcoholic beverages or wine for on premises consumption;

(E) Any county or municipality where it was lawful to have manufacturing of intoxicating liquors or intoxicating drinks, or both under this subsection (d) as it read prior to July 1, 2013; or

(F) Any county that has at least three (3) establishments, located in such county or in any municipality in such county, licensed under § 57-4-102(28) to sell alcoholic beverages for on-premises consumption if such county was included in this subsection (d) as it read prior to July 1, 2013.

(2)(A) Notwithstanding subdivision (d)(1), the county legislative body of any such county may adopt a resolution to remove the unincorporated areas of the county from the application of this subsection (d) subject to the restrictions in subdivision (d)(2)(B). The county mayor shall notify the alcoholic beverage commission if such action is taken and approved.

(B) Such action may be taken by the county legislative body pursuant to subdivision (d)(2)(A) until a written notification is filed with the county mayor by any person as an official notice that the person intends to pursue all lawful avenues to manufacture intoxicating liquors or intoxicating drinks, or both, within the unincorporated areas of the county. Once the notice is filed, no action may be taken by the county legislative body unless such interest is withdrawn or the person's application to manufacture such intoxicating liquors or intoxicating drinks, or both, is denied by the state or federal government. A written notification as described pursuant to this subdivision (d)(2)(B) may not be filed with the county mayor until at least forty-five (45) days after July 1, 2013.

(C) If a county adopts a resolution pursuant to subdivision (d)(2)(A), the county may at a later date adopt a resolution reversing such action. The county mayor shall notify the alcoholic beverage commission if such action is taken and approved.

(3)(A) Notwithstanding subdivision (d)(1), the legislative body of any municipality may adopt a resolution to remove the municipality from the application of this subsection (d) subject to the restrictions in subdivision (d)(3)(B). The legislative body of the municipality shall notify the alcoholic beverage commission if such action is taken and approved.

(B) Such action may be taken by the legislative body of the municipality pursuant to subdivision (d)(3)(A) until a written notification is filed with the legislative body of the municipality by any person as an official notice that the person intends to pursue all lawful avenues to manufacture intoxicating liquors or intoxicating drinks, or both, within the boundaries of the municipality. Once the notice is filed, no action may be taken by the legislative body of the municipality unless such interest is withdrawn or the person's application to manufacture such intoxicating liquors or intoxicating drinks, or both, is denied by the state or federal government. A written notification as described pursuant to this subdivision (d)(3)(B) may not be filed with the legislative body of the municipality until at least forty-five (45) days after July 1, 2013.

(C) If a municipality adopts a resolution pursuant to subdivision (d)(3)(A), the municipality may at a later date adopt a resolution reversing such action. The legislative body of the municipality shall notify the alcoholic beverage commission if such action is taken and approved.

(4) If a manufacturer that has been issued a license pursuant to this subsection (d) is also selling the manufacturer's alcoholic beverages or products at retail and the manufacturer is located in a jurisdiction that pursuant to § 57-5-105 has established a distance requirement that restricts the storage, sale or manufacture of beer from places of public gatherings or in a municipality or Class B county that pursuant to § 57-5-106 has adopted proper ordinances governing the storage, sale, manufacture and/or distribution of beer within its jurisdictional boundary, then any distance requirement related to a building used for religious purposes or a building used as an elementary or secondary school in effect in that jurisdiction shall apply to the building used for the retail sale of the manufacturer's alcoholic beverages or products containing alcohol. The measurement shall be a building-to-building measurement.

(5) Notwithstanding subsections (a)-(c) and subdivision (d)(1), it shall be lawful to manufacture intoxicating liquors or intoxicating drinks, or both, on property that is listed on the National Register of Historic Places and where intoxicating liquors or intoxicating drinks, or both, were previously distilled on such property, or approximately on such property.

(6) A municipality as described in § 57-4-102(28)(B) may adopt an ordinance imposing a minimum distance, not to exceed one thousand feet (1,000′), between distilleries manufacturing distilled spirits; provided, that the ordinance shall not apply to or affect any licensed distillery in operation and open to the public prior to April 12, 2016. A distillery that is exempt from an ordinance adopted under this subdivision (d)(6) shall remain exempt from any ordinance adopted under this subdivision (d)(6) upon the transfer of any ownership interest in the distillery to a successor in interest.

(e) Any manufacturer's license issued pursuant to subsection (c) or (d) shall comply with § 57-3-202.

(f)(1) Notwithstanding subsections (a)-(c), it shall be lawful to manufacture high alcohol content beer as defined in § 57-3-101(a) within the boundaries of:

(A) A municipality if both retail package sales and consumption of alcoholic beverages on the premises have been approved through voter referendum of voters within such municipality; or

(B) The unincorporated areas of a county if any jurisdiction located within such county has approved retail package sales through referendum of voters and any jurisdiction located within such county has approved consumption of alcoholic beverages on the premises through referendum of voters or if the county is included in the Tennessee River resort district as defined in § 57-4-102 and retail package sales have been approved through voter referendum in any jurisdiction within the county.

(2) Any manufacturer authorized pursuant to subdivision (f)(1) must also hold a brewer's notice approved by the United States department of the treasury, alcohol and tobacco tax and trade bureau, or any successor federal beer manufacturing permit granted by a federal bureau having jurisdiction

over the manufacture of beer.

(3) In all jurisdictions not meeting the requirements of subdivision (f)(1), it shall be lawful to manufacture high alcohol content beer as defined in § 57-3-101(a) within the boundaries of a municipality or in the unincorporated area of such county upon such jurisdiction meeting the requirements of subsections (a)-(c), and if the manufacturer also holds a brewer's notice approved by the United States department of the treasury, alcohol and tobacco tax and trade bureau, or any successor federal beer manufacturing permit granted by a federal bureau having jurisdiction over the manufacture of beer.

(4) Notwithstanding any other law to the contrary, it shall be lawful for any manufacturer of high alcohol content beer authorized to manufacture such beverages pursuant to subdivision (f)(1) to also brew beer as this term is defined in § 57-5-101(b) on the same premises of the manufacturer of high alcohol content beer, upon meeting necessary federal, state and local license requirements.

(5) The general assembly hereby ratifies any action which may have been taken by the alcoholic beverage commission in issuing a license to a manufacturer of high alcohol content beer prior to June 10, 2011.

(g) The general assembly hereby ratifies any action which may have been taken by the alcoholic beverage commission in issuing a license to a manufacturer of intoxicating liquors or intoxicating drinks, or both prior to July 1, 2013.

(h)(1) Any person who has received a manufacturing license for intoxicating liquors or intoxicating drinks, or both from the alcoholic beverage commission or who has an application for such manufacturing license pending with the commission on July 1, 2013, may still receive and be able to renew the license if the person was authorized to apply for such license under this section prior to July 1, 2013.

(2) Any person who has received the necessary permit to manufacture intoxicating liquors or intoxicating drinks, or both from the alcohol and tobacco tax and trade bureau (TTB) or who has an application for such permit pending with the TTB on July 1, 2013, may still receive and be able to renew a manufacturing license from the alcoholic beverage commission if the person was authorized to apply for such manufacturing license under this section prior to July 1, 2013.

(3) If any person obtains a manufacturing permit pursuant to this subsection (h), then the jurisdiction such licensee is located in shall be allowed to have other manufacturers located in such jurisdiction, notwithstanding subdivision (d)(1).

**History.**

Acts 1937, ch. 193, § 1; C. Supp. 1950, § 6648.1; impl. am. Acts 1953, ch. 88, § 1; Acts 1972, ch. 740, § 4(65); impl. am. Acts 1978, ch. 934, §§ 7, 22, 36; T.C.A. (orig. ed.), § 57-101; Acts 2009, ch. 524, § 1; 2011, ch. 448, § 12; 2012, ch. 515, § 1; 2013, ch. 445, §§ 1, 2; 2014, ch. 875, § 1; 2016, ch. 786, § 1; 2018, ch. 650, § 1.

**Compiler's Notes.**

This section is set out in the supplement to update internal references in (d)(1)(D), (d)(1)(F), and (d)(6) from "§ 57-4-102(27)" to "§ 57-4-102(28)" and "§ 57-4-102(27)(B)" to "§ 57-4-102(28)(B)".

**57-2-104. Possession, storage or transportation by manufacturer lawful — Rights limited.**

A manufacturer licensed pursuant to § 57-3-202, or the authorized agent of such licensee, may possess, store, or transport the products of the manufacturing plant within, over, and across the state; provided, that any alcoholic beverages or wine produced at a plant located within this state must be stored within a county that has authorized the manufacture of intoxicating liquors pursuant to § 57-2-103 or in a county adjacent to a county that has authorized the manufacturing operation, and such possession shall be limited to storage facilities owned, authorized, or leased by such manufacturer; and further provided, that such licensee may also possess such alcoholic beverages or wine while being transported, whether within or outside of the state. Common carriers may transport the products of such manufacturing plant only pursuant to an agreement or contract with a licensee under this title.

**History.**
Acts 1937, ch. 193, § 3; C. Supp. 1950, § 6648.3; T.C.A. (orig. ed.), § 57-104; Acts 2011, ch. 448, § 4; 2013, ch. 341, § 2; 2018, ch. 717, § 1; 2021, ch. 329, § 1.

**Amendments.**
The 2021 amendment substituted "§ 57-3-202" for "§ 57-2-102".

**Effective Dates.**
Acts 2021, ch. 329, § 3. May 4, 2021.

# CHAPTER 3

# LOCAL OPTION—TRAFFIC IN INTOXICATING LIQUORS

Part 1. General Provisions

Section
57-3-101. Title definitions.
57-3-106. Local option election — Municipalities where applicable — Supplemental voter registration — Restrictions on frequency of elections.

Part 2. Licenses and Fees

57-3-201. License classifications.
57-3-202. Manufacturer's or distiller's licenses — Qualifications of applicants — Fees — Permits to solicit orders — Penalty — Rules and regulations.
57-3-204. Retailer's licenses — Fees — Disposition of alcoholic beverages after retailer ceases doing business — Sale by manufacturer and other entities.
57-3-207. Grape and Wine Law.
57-3-208. Certificate required — Contents — Exceptions.
57-3-213. Expiration of licenses — Renewal.
57-3-217. Winery direct shipper's license.
57-3-224. Delivery service license.
57-3-226. Sale or transfer of alcoholic beverage inventory.

Part 3. Taxes

57-3-301. Brand name alcoholic beverages — Tax — Sale or importation — Contracts — Revocation of permits or licenses.

Part 4. Prohibited Acts — Enforcement

57-3-404. Regulations for purchase and sale of intoxicating liquors — Wholesalers — Check cashing — Ground floor location — Credit sales.

Section
57-3-415. Fulfillment house license. [Effective on January 1, 2022.]

Part 7. Employee and Server Permits

57-3-704. Application requirements for server permits.

Part 8. Sale of Wine in Retail Food Stores

57-3-806. Certificate to accompany application for license — Contents — Requirements for renewal of license — Limitation on location of licensed premises — Review of denial of certificate.
57-3-818. Responsible vendor training program — Report — Fees — Exceptions.
57-3-820. Sale or transfer of alcoholic beverage inventory.

Part 11. Tennessee Wine and Grape Board

57-3-1101. Tennessee wine and grape board.
57-3-1102. Use of appropriated money — Raising funds — Audit.
57-3-1103. Promulgation of rules by board.

# PART 1

# GENERAL PROVISIONS

## 57-3-101. Title definitions.

(a) As used in this title, unless the context requires otherwise:

(1)(A) "Alcoholic beverage" or "beverage" means and includes alcohol, spirits, liquor, wine, high alcohol content beer, and every liquid containing alcohol, spirits, wine, and high alcohol content beer and capable of being consumed by a human being, other than patent medicine or beer, as defined in § 57-5-101. Notwithstanding any provision to the contrary in this title, except for beer as defined in § 57-5-101(b), "alcoholic beverage" or "beverage" also includes any liquid product containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol, regardless of alcohol content. Liquid products intended for beverage purposes containing alcohol that do not meet the definition of beer under § 57-5-101(b) shall also be alcoholic beverages. Notwithstanding this subdivision (a)(1)(A), products or beverages containing less than one-half of one percent (0.5%) alcohol by volume, other than wine as defined in this section, shall not be considered to be alcoholic beverages, and shall not be subject to regulation or taxation pursuant to chapters 1-6 and 9 of this title.

(B) Notwithstanding this definition, ethanol produced in a facility whose production process is primarily a wet milling process in bulk and sold and transported in bulk lots of five thousand gallons (5,000 gals.) or more and not packaged for retail sale by the holder of a valid alcohol fuels permit or a valid distilled spirits permit:

(i) For export to another country;

(ii) To a domestic manufacturer, distiller, vintner, or rectifier who is a duly licensed alcohol beverage or liquor manufacturer in this or some other state; or

(iii) To a manufacturer who uses the ethanol to create a product which is incapable of human consumption or contains less than one-half

of one percent (0.5%) alcohol by volume;

shall not be considered to be an alcoholic beverage and shall not be subject to regulation or taxation pursuant to chapters 1-6 and 9 of this title;

(2) "Commission" means the alcoholic beverage commission, except as otherwise provided;

(3) "Distiller" means any person who owns, occupies, carries on, works, conducts or operates any distillery either personally or by an agent;

(4) "Distillery" means and includes any place or premises wherein any liquors are manufactured for sale;

(5) "Federal license" does not mean tax receipt or permit;

(6) "Gallon" or "gallons" means a wine gallon or wine gallons, of one hundred and twenty-eight ounces (128 oz.);

(7) "Gift" means and includes the unauthorized distribution of alcoholic beverages by a licensee for which no payment is expected or received; provided, however, that it does not include any such transaction between a licensee and its employee or employees in the normal course of employment or depletions from a licensee's inventory related to routine business or marketing purposes where all applicable taxes have been paid;

(8) "High alcohol content beer" means an alcoholic beverage which is beer, ale or other malt beverage having an alcoholic content of more than eight percent (8%) by weight and not more than twenty percent (20%) by weight, except wine as defined in § 57-3-101, that is brewed, regulated, distributed or sold pursuant to chapter 3 of this title; provided, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol;

(9) "Importer" means any person or entity holding a non-manufacturer non-resident seller's permit pursuant to § 57-3-602(c) or any entity causing alcoholic beverages to be delivered or shipped into this state holding an importer's basic permit from the alcohol and tobacco tax and trade bureau of the United States department of the treasury;

(10) "License" means the license issued pursuant to this chapter;

(11) "Licensee" means any person to whom such license has been issued pursuant to this chapter;

(12) "Manufacture" means and includes brewing high alcohol content beer, distilling, rectifying and operating a winery;

(13) "Manufacturer" means and includes a brewer of high alcohol content beer, distiller, vintner and rectifier;

(14) "Municipality" means an incorporated town or city having a population of seven hundred (700) or more, according to the 2010 federal census or any subsequent federal census; provided, however, that when an incorporated town or city by ordinance authorizes a census to be taken of such incorporated town or city and provides the commission with a certified copy of the census containing the name, address, age, and sex of each person enumerated therein, and if the census shows that the incorporated town or city has a population of seven hundred (700) persons or more, the commission, upon verification of the census, may declare such incorporated town or city to be a "municipality" for the purposes of this chapter;

(15) "Pint" means one-eighth (⅛) of a wine gallon;

(16) "Quart" means one-fourth (¼) of a wine gallon;

(17) "Rectifier" means and includes any person who rectifies, purifies or refines distilled spirits or wines by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying or refining distilled spirits, shall, by mixing such spirits, wine or other liquor with any material, manufacture any imitation of, or compounds liquors for sale under the name of, whiskey, brandy, gin, rum, wine, spirits, cordials, bitters or any other name;

(18) "Retail food store wine license" means a license for the sale of wine at retail in a retail food store as defined in part 8 of this chapter;

(19) "Retailer" means any person who sells at retail any beverage for the sale of which a license is required under this chapter;

(20) "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale; provided, however, that it does not include any transaction between a licensee and its employee or employees in the normal course of employment for which no payment is expected or received or depletions from a licensee's inventory related to routine business or marketing purposes where all applicable taxes have been paid;

(21) "Vintner" means any person who owns, occupies, carries on, works, conducts or operates any winery, either personally or by an agent;

(22) "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a license is required under this chapter;

(23) "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale, except that sales by a person licensed under § 57-3-204 to a charitable, nonprofit, or political organization possessing a valid special occasion license for resale by such organizations pursuant to their special occasion license shall not be construed as such a sale;

(24) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced, or an artificial or imitation wine; and

(25) "Winery" means and includes any place or premises wherein wines are manufactured from any fruit or brandies distilled as the by-product of wine or other fruit or cordials compounded, and also includes a winery for the manufacture of wine.

(b) Words importing the masculine gender include the feminine and the neuter, and the singular includes the plural.

**History.**

Acts 1939, ch. 49, §§ 3, 4, 13; 1949, ch. 284, § 9; C. Supp. 1950, §§ 6648.4, 6648.19 (Williams, §§ 6648.6, 6648.7, 6648.16); Acts 1955, ch. 347, § 2A; impl. am. Acts 1959, ch. 9, § 14; Acts 1963, ch. 257, § 11; modified; T.C.A. (orig. ed.), § 57-106; Acts 1981, ch. 404, § 4; 1982, ch. 877, § 5; 1983, ch. 229, § 4; 1986, ch. 516, § 1; 1989, ch. 325, § 1; 1991, ch. 58, § 1; 1997, ch. 155, § 2; 2005, ch. 298, § 1; 2009, ch. 395, §§ 1,

2; 2011, ch. 448, §§ 7-11; 2014, ch. 554, § 6; 2014, ch. 767, § 3; 2014, ch. 861, § 1; 2015, ch. 269, § 1; 2021, ch. 426, § 1.

**Amendments.**

The 2021 amendment in the definition of "municipality", substituted "seven hundred (700) or more, according to the 2010 federal census" for "nine hundred twenty five (925) persons or over by the federal census of 1950", substituted "an" for "any" preceding "incorporated town or city by ordinance", substituted "provides the commission with" for "shall furnish to the commission", substituted "shows" for "shall show" following "enumerated therein, and if the census", substituted "seven hundred (700) persons or more" for "nine hundred twenty five (925) persons or over" and substituted "the purposes" for "all intents and purposes" near the end of the definition.

**Effective Dates.**

Acts 2021, ch. 426, § 3. May 12, 2021.

## 57-3-104. Enforcement and administration by commission — Licensing procedures.

**Attorney General Opinions.**

The Alcoholic Beverage Commission (ABC) has the power, by necessary implication, to require distillers of alcoholic beverages to report the names of the current corporate shareholders and officers on a form designated by the ABC. For purposes of reporting to the ABC a change in the stock ownership of a corporation that operates a distillery, there is no provision of law that expressly establishes a threshold percentage change of interest that must be met before the change is required to be reported. Likewise, no provision of current state law exempts any type of distillery from reporting the names of corporate shareholders and officers to the ABC. OAG 18-03, 2018 Tenn. AG LEXIS 3 (1/31/2018).

## 57-3-106. Local option election — Municipalities where applicable — Supplemental voter registration — Restrictions on frequency of elections.

(a)(1) Except as provided in subsection (g), the voters of any county may, by local option election, permit the manufacture, receipt, sale, storage, transportation, distribution and possession of alcoholic beverages, within the territorial limits of such county, by a majority vote, at an election held as hereinafter provided, and, in the event of such permission, the manufacture, receipt, sale, storage, transportation, distribution and possession of alcoholic beverages in such county are lawful; provided, that sales at retail as herein defined shall be made only in the municipalities in such county as herein defined, or within a civil district of such county, which district shall have a population of thirty thousand (30,000) persons or over, according to the federal census for the year 1950 or any subsequent census, but which civil district shall not have lying either wholly or partly within its boundaries a municipality as herein defined.

(2) In like manner, the voters of any county, at any time while this chapter is in effect, may, by local option election, forbid the manufacture, receipt, sale, storage, transportation, distribution and/or possession of alcoholic or intoxicating beverages, within the territorial limits of such county, by a majority vote, at an election to be held as hereinafter provided, and, in the event of such prohibition, the manufacture, receipt, sale, storage, transportation, distribution and/or possession of alcoholic or intoxicating beverages in such county is unlawful; provided, that this does not apply to a bona fide manufacturer, actually engaged in manufacture under this chapter.

(b)(1) Except in counties having populations of:

| not less than | nor more than |
|---|---|
| 12,100 | 12,200 |
| 23,500 | 24,000 |
| 65,000 | 70,000 |

according to the 1970 federal census or any subsequent federal census, the voters of any municipality in this state which has been incorporated under a general or special law or laws of this state for five (5) years or longer, except in municipalities with a population of not less than one thousand two hundred thirty (1,230) nor more than one thousand two hundred fifty (1,250), according to the 1970 federal census or any subsequent federal census, in any county having a population of not less than thirteen thousand five hundred (13,500) nor more than thirteen thousand six hundred (13,600), according to the 1970 federal census or any subsequent federal census, may, by local option election, permit the manufacture, receipt, sale, storage, transportation, distribution and/or possession of alcoholic beverages within the territorial limits of such municipality by a majority vote, at an election held as hereinafter provided, and in the event of such permission, the manufacture, receipt, sale, storage, transportation, distribution and/or possession of alcoholic beverages in such municipality shall be, and become lawful, notwithstanding the fact that the county or any portion thereof in which such municipality is located has, or has not, voted to the contrary under any other provision of this chapter, and the same shall continue to be lawful until the same is forbidden by the voters of such municipality, by majority vote thereof, at a local option election held as hereinafter provided.

(2) In like manner, the voters of any such municipality, at any time while this chapter is in effect, may, by local option election, forbid the manufacture, receipt, sale, storage, transportation, distribution, and/or possession of alcoholic or intoxicating beverages, within the territorial limits of the municipality, by a majority vote, at an election to be held as hereinafter provided, and in the event of such prohibition, the manufacture, receipt, sale, storage, transportation, distribution, and/or possession of alcoholic or intoxicating beverages in the municipality is unlawful, notwithstanding the fact that the county or any portion thereof in which the municipality is located has or has not voted to the contrary under any other provision of this chapter; provided, that this does not apply to a bona fide manufacturer, actually engaged in manufacture under any law of this state.

(c)(1) Elections provided for in subsections (a) and (b) shall be called and held as elections on questions by the county election commission at the next regular election of the county or municipality, as the case may be, upon receipt of a petition signed by residents of the county or municipality, as the case may be, to a number amounting to ten percent (10%) or more of the votes cast in the county or municipality, as the case may be, for governor of the state of Tennessee at the then last preceding gubernatorial election, requesting the holding of such election. Except that, no election under this chapter may be placed on the same ballot or conducted on the same day of a primary election.

(2) Such petition shall be addressed to the county election commission of such county, or county in which such municipality is located, and shall read,

except for such address, substantially as follows:

We, registered voters of _____ (here insert name of county or municipality, as the case may be), do hereby request the holding of a local option election to authorize retail package stores to sell alcoholic beverages as provided by law.

(3) Such petition may be in two (2) or more counterparts.

(d) Registered voters of the county or municipality, as the case may be, may vote in the election. Ballots shall be in the form prescribed by the general election laws of the state, except as herein otherwise provided.

(1) The questions submitted to the voters appearing thereon in county elections shall be in the following form:

To permit retail package stores to sell alcoholic beverages in _____ (Here insert name of county)

Not to permit retail package stores to sell alcoholic beverages in _____ (Here insert name of county)

(2) The questions submitted to the voters appearing thereon in municipal elections shall be in the following form:

To permit retail package stores to sell alcoholic beverages in _____ (Here insert name of municipality)

Not to permit retail package stores to sell alcoholic beverages in _____ (Here insert name of municipality)

(e) In county elections, the county election commission shall hold a prior supplemental registration, unless such election be at the time of a general election, such registration to be held at the time and in the manner prescribed by law for the holding of supplemental registration previous to the election for members of the general assembly.

(f)(1) The county election commission shall certify the results of the election to the county mayor in county elections and to the mayor of the municipality in municipal elections.

(2) Not more than one (1) election in any such county or municipality shall be held under this chapter within any period of twenty-four (24) months, except that no election in an entire county or any portion thereof in which such municipality is located, held under this chapter, is an election held in such municipality within the meaning of this subdivision (f)(2).

(3) Should any county or municipality thereof conduct a local option election under this chapter in conjunction with any general election, and the number of qualified votes cast negative to the local option proposition exceeds sixty percent (60%) of the total number of votes cast in the election, no further local option election in such county or municipality shall be held for a period of four (4) years from the date of such previous election. However, no election in an entire county or any portion thereof in which such municipality is located, held under this chapter, is an election held in such municipality within the meaning of this provision.

(g)(1) In those counties wherein are located municipalities which have a population equal to or greater than the smallest county in Tennessee by the federal census of 1960 or by any succeeding federal census, or any municipality having a population of one thousand seven hundred (1,700) or more persons, according to the 1960 federal census in which at least fifty percent

(50%) of assessed valuation of the real estate in the municipality consists of hotels, motels, and tourist courts and accommodations, as shown by the tax assessment rolls or books of the municipality, the elections provided for in subsection (a) apply only to those portions of such county lying outside the corporate limits of such municipalities, it being the purpose and intent of this chapter that as to such counties no countywide election may be held in, nor shall its result affect, any such municipality, but whether or not the manufacture, receipt, sale, storage, distribution, transportation and/or possession of alcoholic beverages shall be permitted or prohibited within the corporate limits of such municipalities shall be determined solely by separate local option elections held in each municipality as provided by subsection (b) hereof; provided, that in such counties wherein the manufacture, storage, sale, distribution, transportation, and/or possession of alcoholic beverages was legal on May 10, 1967, nothing herein shall affect the legality thereof in such counties and the municipalities thereof until the same shall be prohibited by separate local option elections held as provided in this section.

(2) Elections may be called and held in such portions of such counties lying outside such municipalities in the same manner as is provided by subsection (a) for an entire county and with like effect, except that the results thereof shall be applicable only to those portions of such counties lying without the corporate limits of such municipalities. Petitioners for such elections and the voters participating therein shall reside within those portions of the county lying outside the corporate limits of such municipalities and shall be otherwise qualified as provided in this section. Where a majority of the voters participating in such election shall permit the manufacture, receipt, sale, storage, distribution, transportation and/or possession of alcoholic beverages within such portions of such counties, the same shall be and become lawful therein, but sales at retail shall be made only in such portions of such counties as are within the corporate limits of municipalities as the same are defined in § 57-3-101, except this subsection (g) shall likewise apply to any civil district which falls within subsection (a) and § 57-3-205.

(3) Not more than one (1) such election shall be held in such portions of any county lying without the corporate limits of such municipalities within any period of twenty-four (24) months.

(4) Should any portion of any county lying without the corporate limits of such municipalities conduct a local option election under the provisions of this chapter in conjunction with any general election, and the number of qualified votes cast negative to the local option proposition exceeds sixty percent (60%) of the total number of votes cast in the election, no further local option election in such portions of any county lying without the corporate limits of such municipalities shall be held for a period of four (4) years from the date of such previous election. However, no election in any such portion of a county, held under this chapter, is an election held in such municipalities within the meaning of this subdivision (g)(4).

(h) When a municipality is located partly within a county that has a metropolitan form of government and the county has authorized retail package

stores to sell alcoholic beverages and partly within another county that has not authorized retail package stores to sell alcoholic beverages, a referendum in the municipality shall be held only in that portion of the municipality located in the county that has not authorized retail package stores to sell alcoholic beverages. The referendum result shall not affect the sale of alcoholic beverages by retail package stores in the portion of the municipality located in the county having a metropolitan form of government.

(i) If any municipality located in any county having a population of not less than twenty-nine thousand four hundred (29,400) nor more than twenty-nine thousand five hundred (29,500), according to the 2010 federal census or any subsequent federal census, has authorized the sale of alcoholic beverages for consumption on the premises in a referendum in the manner prescribed by this section, then any municipality having a population of not less than five hundred thirty (530) nor more than five hundred thirty-nine (539), according to the 2010 federal census or any subsequent federal census, located within the boundaries of such county, may conduct a referendum to authorize the sale of alcoholic beverages at retail within the corporate boundaries of such municipality, notwithstanding the population requirements of § 57-3-101(a)(14) or subdivision (b)(1). The referendum shall be conducted in the manner prescribed by this section.

(j) If any municipality located in any county having a population of not less than forty-one thousand eight hundred (41,800) nor more than forty-one thousand nine hundred (41,900), according to the 2010 federal census or any subsequent federal census, has authorized the sale of alcoholic beverages for consumption on the premises in a referendum in the manner prescribed by this section, then any municipality having a population of not less than four hundred sixty (460) nor more than seven hundred eighty-five (785), according to the 2010 federal census or any subsequent federal census, located within the boundaries of such county, may conduct a referendum to authorize the sale of alcoholic beverages at retail within the corporate boundaries of such municipality, notwithstanding the population requirements of § 57-3-101(a)(14) or subdivision (b)(1). The referendum must be conducted in the manner prescribed by this section.

(k) If any municipality located in any county having a population of not less than sixty-six thousand two hundred (66,200) nor more than sixty-six thousand three hundred (66,300), according to the 2010 federal census or any subsequent federal census, has authorized the sale of alcoholic beverages for consumption on the premises in a referendum in the manner prescribed by this section, then any municipality having a population of not less than three hundred ten (310) nor more than three hundred nineteen (319), according to the 2010 federal census or any subsequent federal census, located within the boundaries of such county, may conduct a referendum to authorize the sale of alcoholic beverages at retail within the corporate boundaries of such municipality, notwithstanding the population requirements of § 57-3-101(a)(14) or subdivision (b)(1). The referendum must be conducted in the manner prescribed by this section.

(*l*)(1) Notwithstanding subsection (a), in any county that has approved the sale at retail of alcoholic beverages, retail sales may be made within the boundaries of any property under the control of a property owners associa-

tion that:

(A) Includes at least four thousand (4,000) homes;

(B) Contains three (3) golf courses, a country club, and a yacht club;

(C) Is managed by a 501(c) nonprofit corporation;

(D) Has more than one hundred (100) miles of roads maintained by the property owners association;

(E) Has a volunteer fire department;

(F) Has more than one hundred (100) people employed by the property owners association;

(G) Has a utility system maintained by the property owners association;

(H) Is located on the banks of Tellico Reservoir; and

(I) Is located in any county having a population not less than forty-eight thousand five hundred (48,500) and not more than forty-eight thousand six hundred (48,600), according to the 2010 federal census or any subsequent federal census.

(2) Notwithstanding any other law to the contrary, the commission may issue a retailer's license to any 501(c) nonprofit corporation described in subdivision (*l*)(1)(C) if such nonprofit corporation approves having a retail licensee within the boundaries of its property upon a majority vote of the board for such nonprofit corporation.

**History.**

Acts 1939, ch. 49, § 16; C. Supp. 1950, § 6648.8 (Williams, § 6648.19); Acts 1951, ch. 52, § 6; impl. am. Acts 1951, ch. 75, § 1; impl. am. Acts 1953, ch. 88, § 1; Acts 1963, ch. 390, § 1; 1967, ch. 215, § 1; 1971, ch. 70, § 8; 1972, ch. 502, § 1; 1972, ch. 612, § 8; 1972, ch. 640, § 1; 1972, ch. 740, § 4; impl. am. Acts 1972, ch. 740, § 7; Acts 1975, ch. 112, §§ 1, 2; 1975, ch. 358, § 1; 1977, ch. 174, §§ 1, 2; 1978, ch. 627, § 1; impl. am. Acts 1978, ch. 934, §§ 21, 36; T.C.A. (orig. ed.), § 57-111; Acts 1981, ch. 381, §§ 1-3; 1982, ch. 551, §§ 1-5; 1992, ch. 711, § 2; 2003, ch. 90, § 2; 2011, ch. 116, § 1; 2015, ch. 201, § 1; 2018, ch. 692, § 1; 2018, ch. 891, § 1; 2018, ch. 1027, § 2; 2021, ch. 237, § 1; 2021, ch. 426, § 2.

**Amendments.**

The 2021 amendment by ch. 237 substituted "nor more than seven hundred eighty-five (785)" for "nor more than four hundred seventy (470)" in (j).

The 2021 amendment by ch. 426 deleted "and which has a population of nine hundred twenty-five (925) or more persons, according to the federal census of 1970 or any subsequent federal census" following "five (5) years or longer" in (b)(1).

**Effective Dates.**

Acts 2021, ch. 237, § 3. April 22, 2021.

Acts 2021, ch. 426, § 3. May 12, 2021.

# PART 2

# LICENSES AND FEES

## 57-3-201. License classifications.

The alcoholic beverage commission may issue, under this chapter, the following classes of licenses, in relation to alcoholic spirituous beverages exclusively, which shall consist of the following classes only:

(1) Manufacturer's or distiller's or rectifier's license;

(2) Liquor wholesaler's license;

(3) Liquor retailer's license;

(4) Winery license;

(5) Winery direct shipper's license;
(6) Alcoholic beverage collector's license;
(7) Winemaking on premises facility license;
(8) Farm wine permit; and
(9) Wine at retail food store license.

**History.**
Acts 1939, ch. 49, § 5; mod. C. Supp. 1950, § 6648.10 (Williams, § 6648.8); modified; impl. am. Acts 1963, ch. 257, § 17; T.C.A. (orig. ed.), § 57-114; Acts 2009, ch. 348, § 2; 2009, ch. 484, § 2; 2011, ch. 451, § 1; 2012, ch. 691, § 2; 2014, ch. 554, § 5; 2019, ch. 263, § 1.

**Amendments.**
The 2019 amendment inserted "Winery" at the beginning of (5).

**Effective Dates.**
Acts 2019, ch. 263, § 2. April 30, 2019.

## 57-3-202. Manufacturer's or distiller's licenses — Qualifications of applicants — Fees — Permits to solicit orders — Penalty — Rules and regulations.

(a) A manufacturer's or distiller's license may be issued, as hereinafter provided, for the manufacturing of alcoholic spirituous beverages or vintage alcoholic beverages. Any person, firm, or corporation desiring to manufacture for commercial purposes any alcoholic spirituous beverages or vintage alcoholic beverages shall make application to the commission for a license to manufacture the same, which application shall be in writing and verified, on the forms herein authorized, to be prescribed and furnished; and, thereupon, the commission may grant such license, subject to this chapter.

(b) All applicants if individuals must be citizens of the United States, and all stockholders of any corporate licensee must likewise be citizens of the United States.

(c) Such license shall not be issued unless and until there be paid to the commission a separate license fee of one thousand dollars ($1,000).

(d) Before an individual owner, officer, employee, or representative of any manufacturer, rectifier, or importer may solicit orders from a licensed wholesaler in this state, such individual owner, officer, employee, or representative shall be the holder of a permit issued by the commission. The fee for such permit shall be fifty dollars ($50.00). Such permit shall authorize the holder to solicit orders upon the premises of a licensed wholesaler. A representative may sell the products of, or represent more than one (1) manufacturer, rectifier, or importer and such affiliates or subsidiaries that the manufacturer, rectifier, or importer may control by means of ownership or the ownership of a controlling stock interest.

(e) "Vintage alcoholic beverages," as used in this section, means all wine sold by wholesalers licensed under § 57-3-203.

(f)(1) A manufacturer's license may be issued to a person, firm or corporation for the limited purpose of blending nonalcoholic products with alcoholic beverages on premises, either on its own behalf or on behalf of other entities pursuant to contract.

(2) A licensee under this subsection (f) may obtain the alcoholic beverages for use in its blending operations from any entity holding a license or permit issued under this section, §§ 57-2-104, 57-3-203, and part 6 of this chapter.

(3) A license may be issued to a manufacturer, under this subsection (f),

notwithstanding the requirements of § 57-3-106.

(4) A manufacturer, licensed under this subsection (f) for the limited purpose of blending, may sell, distribute or transport the product produced from its blending operations in accordance with this title.

(g) Notwithstanding subsection (f), an establishment licensed to sell alcoholic beverages for on-premises consumption pursuant to chapter 4, part 1 of this title, may, without a manufacturer's license, produce, store and sell infused products pursuant to § 57-4-108.

(h) The commission is empowered to make such regulations, investigations and audits as it may deem necessary for enforcing and preventing violations of this chapter.

(i)(1) A manufacturer's license issued or renewed under this section to a manufacturer shall also allow such manufacturer to sell at retail on the licensed premises of the manufacturer products that are manufactured on the manufacturer's premises; provided, that no more than five gallons (5 gal.) or one-sixth (⅙) of a barrel of its products may be sold to any one (1) individual per visit to the premises. The manufacturer may serve samples of the product manufactured or distilled at the premises to any person of legal drinking age with or without cost or may include such samples as part of a tour of the manufacturer's or distiller's premises available to the public with or without cost. Such samples may be made available at any location on the manufacturing premises permitted by federal law. The manufacturer shall disclose to the commission the location where samples are available. The hours of sale for the manufacturer to sell products at retail shall be between the hours of eight o'clock a.m. (8:00 a.m.) and eleven o'clock p.m (11:00 p.m) on Monday through Saturday and between the hours of ten o'clock a.m. (10:00 a.m.) and eleven o'clock p.m. (11:00 p.m.) on Sunday.

(2) A manufacturer electing to exercise the rights granted to it under subdivision (i)(1), may only sell at retail or provide samples of product that it has obtained from a wholesaler licensed under § 57-3-203, and such wholesaler shall remit all taxes imposed under §§ 57-3-302, 57-3-501 (which shall be collected from the manufacturer based upon its retail sales), and 57-6-201. For products acquired from a wholesaler by a manufacturer under this section, the wholesaler may permit the manufacturer to deliver its products to the location on its premises where such retail sales and samples will be effected, provided the wholesaler permitting such direct shipment must include the amounts delivered in its inventory and depletions for purposes of tax collections.

(3) Notwithstanding any law to the contrary, any manufacturer selling at retail with the license authorized by this subsection (i) shall pay a municipal inspection fee, described in § 57-3-501, if a municipality the manufacturer is located in imposes such inspection fee which shall then be remitted by the wholesaler as described in subdivision (i)(2).

(4)(A) A distiller's license issued or renewed under this section authorizes a distillery to sell to any person of legal drinking age alcoholic beverages for consumption on the premises of the distillery, other than the bonded premises, where such consumption is also permitted by federal law. Distilled spirits sold under this subdivision (i)(4) must be manufactured on the premises of the distillery.

(B) As used in subdivision (i)(4)(A), "premises," for purposes of consumption on the premises:

(i) Means any and all of the real property owned or leased by a distillery upon which the distillery is operated, including any real property owned by the distillery contiguous thereto; and

(ii) Does not mean the bonded premises of a distillery.

(5) Samples served and alcoholic beverages sold for consumption on the premises of a distillery in accordance with this subsection (i) are not subject to the tax imposed by § 57-4-301(c).

(6)(A) Notwithstanding any law to the contrary, and in addition to any rights and abilities already permitted under this subsection (i), a manufacturer electing to exercise the rights granted to it under this subsection (i), may sell alcoholic beverages at retail, sell alcoholic beverages for consumption on the premises, and serve samples of any finished product that is transferred from another site for which a manufacturer's license under this section has been issued to the same licensee, only under the circumstances and conditions as outlined in this subdivision (i)(6).

(B) A manufacturer may sell product transferred between different sites described in one (1) manufacturer's alcohol and tobacco tax and trade bureau (TTB) permit; provided, that:

(i) The site identified as the plant address in the manufacturer's alcohol and tobacco tax and trade bureau (TTB) permit manufactures a minimum of one thousand (1,000) proof gallons at that site annually (prorated for partial years);

(ii) Any site receiving transferred product has a minimum of two thousand square feet (2,000 sq. ft.) of bonded premises;

(iii) Any site transferring product only transfers product that is manufactured at that site or manufactured at another site for which a manufacturer's license under this section has been issued to the same licensee; and

(iv) Any site transferring or receiving transferred product must hold a manufacturer's license issued pursuant to this section.

(C) A manufacturer may sell product transferred between sites described in separate manufacturer's alcohol and tobacco tax and trade bureau (TTB) permits; provided, that:

(i) Any site transferring or receiving transferred product must hold a manufacturer's license issued pursuant to this section. Any site transferring product must have held the manufacturer's license for a minimum of three (3) years;

(ii) Any site receiving transferred product shall not receive more transferred product than the equivalent amount of the proof gallons distilled at the receiving site for each calendar year; and

(iii) Any site transferring product shall only transfer product that is distilled at that site or distilled at another site for which a manufacturer's license under this section has been issued to the same licensee.

(D) Any manufacturer transferring or receiving product pursuant to this subdivision (i)(6) shall comply with the following requirements:

(i) Provide written notice to the commission regarding the manufacturer's intent to transfer product, which notice shall specify the manu-

facturer's qualifications to transfer product pursuant to (i)(6)(B) or (i)(6)(C) and identify the address of each licensed premises that will transfer or receive transferred product;

(ii) The manufacturer shall comply with subdivision (i)(2) and the distance restrictions in §§ 57-2-109 and 57-2-103(d)(6), as applicable;

(iii) A manufacturer transferring or receiving product pursuant to subdivision (i)(6)(B) shall maintain sufficient records documenting that the gallonage and transfer requirements of subdivision (i)(6)(B)(i) are being met and, with its annual renewal, shall file a copy of such records along with copies of the manufacturer's TTB Forms 5110.40 and 5110.28 and an affidavit certifying the amount of product manufactured at the site to document that the licensee has complied with the gallonage and transfer requirements; and

(iv) A manufacturer transferring or receiving product pursuant to subdivision (i)(6)(C) shall maintain sufficient records documenting that the gallonage and transfer requirements of subdivision (i)(6)(C)(ii) are being met and, with its renewal, shall file a copy of such records along with copies of the manufacturer's TTB Form 5110.40 and an affidavit certifying the amounts of product distilled at the site receiving transferred product and the amount of transferred product the site received to document that the licensee has complied with the gallonage and transfer requirements.

(E) Any records or reports filed in accordance with subdivision (i)(6)(D) are privileged and confidential and are not public records.

(F) Failure to comply with the gallonage and transfer requirements of this subdivision (i)(6) may result in a civil penalty not to exceed ten dollars ($10.00) per gallon of the difference between the required gallonage and that disclosed in the licensee's affidavit filed in accordance with subdivision (i)(6)(D). Failure to comply with the gallonage and transfer requirements more than once within a three-year period may result in suspension or revocation of the manufacturer's license.

(j)(1) Any nonprofit association organized to encourage and support the manufacture of alcoholic beverages with three (3) or more manufacturers licensed under this section or non-manufacturer non-resident sellers licensed under § 57-3-602(c) as members shall be allowed to hold not more than fifteen (15) alcoholic beverage festivals per calendar year. Each festival shall not exceed a period of seventy-two (72) hours.

(2) Any manufacturer licensed under this section or non-manufacturer non-resident seller licensed under § 57-3-602(c) participating in a festival authorized by this subsection (j) shall be allowed to transport, serve and offer complimentary samples of any alcoholic beverage lawfully manufactured by the manufacturer or on behalf of the non-manufacturer non-resident seller pursuant to § 57-3-602(c) for tasting at the festival.

(3) Any manufacturer licensed under this section or non-manufacturer non-resident seller licensed under § 57-3-602(c) participating in a festival authorized by this subsection (j) shall be allowed to transport alcoholic beverages produced by that manufacturer or on behalf of that non-manufacturer non-resident seller to sell at the festival for consumption

off-premises.

(4)(A) Any nonprofit association authorized by this subsection (j) to hold an alcoholic beverage festival shall apply for a special occasion license as defined in § 57-4-102, in order for participating manufacturers licensed under this section or non-manufacturer non-resident sellers licensed under § 57-3-602(c) to serve complimentary samples as described in subdivision (j)(2) and to sell alcoholic beverages produced by the manufacturers or on behalf of the non-manufacturer non-resident sellers for consumption off-premises.

(B) Notwithstanding § 57-4-102(34)(A), a special occasion license issued for an alcoholic beverage festival authorized by this subsection (j) shall be for the duration of the festival for which application is made for a period not to exceed seventy-two (72) hours. A special occasion license issued pursuant to this subsection (j) shall only be available upon the payment of the fee as required by law for each separate day of the festival.

(C) A nonprofit association authorized to conduct an alcoholic beverage festival pursuant to this subsection (j) shall be permitted to hold the festival in any municipality or county of the state in the manner provided in subdivision (j)(5).

(5) A nonprofit association, as defined in subdivision (j)(1), is authorized to conduct an alcoholic beverage festival pursuant to this subsection (j) in a municipality or county of this state that has approved the sale of alcoholic beverages or has a licensed manufacturer located in that municipality or county, subject to complying with all permit requirements of the municipality or county, and in all other municipalities or counties upon receiving approval of the legislative body of the municipality or county to hold such festival at a location and in such manner authorized by such legislative body.

(k)(1)(A) Any manufacturer licensed under this section shall be permitted to use items related to or incidental to the tasting of alcoholic beverages manufactured on the premises and such items may be mixed with such alcoholic beverages anywhere on or off the manufacturer's premises where tastings are permitted as well as at private events and events requiring a special occasion license. Such items may include, but are not limited to:

(i) Bitters, whether manufactured on the premises or purchased at retail, used in the preparation or garnishment of alcoholic beverages or mixed alcoholic beverages;

(ii) Any and all garnishes and food items used in the preparation or garnishment of alcoholic beverages or mixed alcoholic beverages, including any juices, concentrates, and other ingredients used in the preparation of mixed alcoholic beverages;

(iii) Glassware and any other cups, glasses, or other containers normally used for serving drinks;

(iv) Ice, water, soft drinks, and any other nonalcoholic beverages; and

(v) Other alcoholic beverages manufactured on the premises.

(B) Tastings under subsection (i) shall be limited to one-half ounce (½ oz.) of alcohol per stock keeping unit (sku) per tasting;

(2) Any manufacturer licensed under this section shall be permitted to rent or lease out any portion of their premises for any event, with or without

charge, whether the event is public, private, requires a special occasion license as defined in § 57-4-102, or catered by a caterer licensed pursuant to chapter 4, part 1 of this title. Events cannot be held on the bonded premises or general premises of the manufacturer, as defined in 27 CFR part 19, unless the manufacturer has obtained prior approval from the alcohol and tobacco tax and trade bureau (TTB) for such events pursuant to federal regulations.

(3) Owners, officers, employees, and representatives of any manufacturer licensed under this section shall be permitted to touch, handle, and pour product of such manufacturer at any and all tastings permitted by law, including, but not limited to, consumer education seminars, employee education seminars, retail sales demonstrations, consumer tastings, private events, events requiring a special occasion license as defined in § 57-4-102, and any and all tastings permitted under this chapter, and any rules or regulations promulgated.

(4) In the event of a conflict between any other law in this title and this subsection (k), this subsection (k) shall govern.

(*l*)(1) A person applying for or renewing a license under this section shall provide the following information to the commission with regard to individuals or entities with more than a ten percent (10%) direct or indirect interest in the manufacturer or distiller to be licensed:

(A) The name of each such individual or entity;

(B) The percentage of ownership; and

(C) All other information requested by the commission.

(2) A person applying for or renewing a license under this section shall provide the following information to the commission with regard to individuals or entities with a ten percent (10%) or less direct or indirect interest in the manufacturer or distiller to be licensed:

(A) The name of each such individual or entity; and

(B) The percentage of ownership.

(3)(A) A person who is applying for or renewing a license that has more than twenty (20) owners is not required to provide the information required by subdivisions (l)(1) and (2); provided, however, that an individual owner with a direct or indirect interest of more than ten percent (10%) shall provide the commission with the information in subdivisions (l)(1)(A)-(C) if requested to do so by the commission.

(B) The commission may require additional information under this subdivision (l)(3) that is necessary for the commission to verify compliance with this chapter and all other applicable laws, except that with respect to an owner with a ten percent (10%) or less direct or indirect interest in a manufacturer or distiller under this section where the owner affirms or attests to the commission that such owner is eligible to have such an interest pursuant to this chapter and other applicable laws, then the commission shall not request additional information regarding such owner, unless the commission has reason to believe that such affirmation or attestation is false.

**History.**

Acts 1939, ch. 49, § 6; 1945, ch. 167, § 3; 1949, ch. 284, § 5; C. Supp. 1950, § 6648.11 (Williams, § 6648.9); impl. am. Acts 1963, ch. 257, § 18; Acts 1975, ch. 234, § 1; 1976, ch. 838, § 1; T.C.A. (orig. ed.), § 57-115; Acts 2006, ch. 616, § 1; 2012, ch. 968, § 5; 2013, ch. 445, § 3; 2014, ch. 1001, § 7; 2014, ch. 1015, §§ 8, 9; 2016, ch. 976, §§ 1, 2; 2017, ch. 295, § 1; 2018, ch. 1027, § 1; 2019, ch. 94, § 1; 2020, ch. 774, § 1; 2021, ch. 329, § 2.

**Amendments.**

The 2019 amendment substituted "ten o'clock a.m. (10:00 a.m.) and eleven o'clock p.m. (11:00 p.m.) on Sunday" for "twelve o'clock (12:00) noon and seven o'clock p.m. (7:00 p.m.) on Sunday" at the end of (i)(1).

The 2020 amendment added (i)(6).

The 2021 amendment added (*l*).

**Effective Dates.**

Acts 2019, ch. 94, § 3. March 28, 2019.

Acts 2020, ch. 774, § 2. July 15, 2020.

Acts 2021, ch. 329, § 3. May 4, 2021.

**Attorney General Opinions.**

Licensed distilleries that sell their own alcoholic beverages for consumption on the premises, as authorized by T.C.A. § 57-3-202(i)(4), must remit the 15% tax imposed on the sales price of each alcoholic beverage sold under T.C.A. § 57-4-301(c)(1), because they are exercising the taxable privilege of "engag[ing] in the business of selling at retail in this state alcoholic beverages for consumption on the premises." These distilleries are not, however, required to remit the annual taxes imposed by § 57-4-301(b)(1), which are specific to facilities licensed under T.C.A. 57-4-101 et seq. OAG 18-12, 2018 Tenn. AG LEXIS 10 (3/16/2018).

## 57-3-204. Retailer's licenses — Fees — Disposition of alcoholic beverages after retailer ceases doing business — Sale by manufacturer and other entities.

(a) For the retail sale of alcoholic spirituous beverages, including beer and malt beverages, as in this chapter defined, a license may be issued as herein provided. Any person, firm, or corporation desiring to sell alcoholic spirituous beverages, including beer and malt beverages, to patrons or customers, in sealed packages only, and not for consumption on the premises except for conducting tastings pursuant to § 57-3-404(h)(2), shall make application to the commission for a retailer's license, which application shall be in writing and verified, on forms herein authorized to be prescribed and furnished; and the commission may, subject to the restrictions of this chapter, issue such retailer's license. If the premises with respect to which the license is sought is owned by a person, firm or corporation not the applicant, the application shall include the name and address of the owner. If the ownership of the premises should change after a license is granted, the licensee shall, within ten (10) days after becoming aware of such change in ownership, notify the commission in writing of the name and address of the new owner.

(b)(1) Each applicant for a retail license shall pay to the commission a one-time, nonrefundable fee in the amount of three hundred dollars ($300) when the application is submitted for review. A retailer's license under this section shall not be issued until the applicant shall have paid to the commission the annual license fee of eight hundred fifty dollars ($850).

(2) No retail license under this section may be issued to any individual:

(A) [Deleted by 2021 amendment.]

(B) Who has been convicted of a felony under the laws of this state, any other state or the United States;

(C) Who has had a license related to the manufacture, sale or distribution of any form of alcoholic beverages revoked for cause;

(D) Who is not twenty-one (21) years of age or older;

(E) Who has an interest, whether direct or indirect, in a manufacturer, distiller, rectifier, liquor wholesaler, winery, distributor, retail food store or

farm winery selling alcoholic beverages that is licensed in this state, except that the spouse of an applicant for a retail license may own and hold a farm wine permit if the spouse does not hold a retailer's license issued under this section;

(F) Who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the commission;

(G) Who intends to carry on the business authorized by the license as the agent or on behalf of another;

(H) Who at the time of the time of application for renewal of any license issued under this section would not be eligible for the license upon a first application;

(I) Who is the holder of a valid existing license issued for the sale of wine in a retail food store under § 57-3-803, and amendments thereto;

(J) Who does not own the premises for which a license is sought, or does not, at the time of application, have a written and enforceable lease thereon;

(K) Whose spouse would be ineligible to receive a license under this section for any reason other than citizenship or age, except that this subdivision (b)(2)(K) shall not apply in determining eligibility for a renewal license; and

(L) Whose spouse has been convicted of a felony or other crime that would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this section.

(3) The commission may issue a retail license to a corporation; provided, that no such license may be issued to, transferred to, or maintained by a corporation if:

(A) An officer, director, or stockholder owning capital stock in the corporation would be ineligible to receive a retailer's license for a reason specified in subdivision (b)(2), if application for such retail license had been made by the officer, director, or stockholder in their individual capacity; or

(B) A person owning stock in such corporation has an interest as partner or otherwise, either direct or indirect, in a business licensed to engage in the distribution of liquor, spirits, wine, or high alcohol content beer in this state.

(4) [Deleted by 2021 amendment.]

(c)(1) If a retail licensee ceases to do business through the voluntary or involuntary loss of the licensee's license, or if a person not licensed under this chapter obtains title to alcoholic beverages of a retail licensee as a result of a defaulted loan or execution, the wholesaler who sold the alcoholic beverages to the retailer shall purchase such alcoholic beverages from the retailer at a base price of the wholesalers' laid-in cost of such alcoholic beverage. A wholesaler shall be permitted an offset or charge against such payment for any outstanding obligation owed to the wholesaler by such licensee or for reasonable labor, restocking and transportation charges.

(2) Any licensee objecting to the reasonableness of the offset or charge may petition the commission to review such, and shall designate the

wholesaler as a respondent. The commission shall conduct a contested case hearing pursuant to the Uniform Administrative Procedure Act, compiled in title 4, chapter 5, part 3, to consider the objection.

(3) The obligation imposed on a wholesaler under this section does not apply to any product which:

(A) Is damaged or cannot be legally sold in this state;

(B) Is not sold to a retailer within one hundred eighty (180) days of demand for repayment;

(C) The wholesaler from whom the product was purchased is not the designated distributor pursuant to § 57-3-301, at the time demand is made;

(D) Product contains a price tag not readily removable; or

(E) Is sold in a commemorative bottle, seasonal decanter or other novelty container.

(4)(A) Notwithstanding § 57-3-406(b), if a retail licensee is not in debt to a wholesaler for any credit law violations or refused check and provides a thirty-day irrevocable notice of surrender to the commission prior to the termination of the license, the licensee shall be able to sell any unopened bottle inventory to any customer below the cost paid by the retailer to purchase the alcoholic beverages from the wholesaler so long as the price is not lower than ten percent (10%) of such purchase price.

(B) A retail licensee selling a product in accordance with this section shall not subsequently purchase that product from the wholesaler prior to termination of the license.

(C) A retail licensee unable to sell product in accordance with this subdivision (c)(4) shall be able to keep the remaining product for personal use.

(d)(1) A manufacturer licensed under § 57-3-202, or under chapter 2 of this title, is authorized to obtain a license under this section for the retail sale of alcoholic beverages or products containing alcohol subject to the further restrictions of this subsection (d).

(2) A manufacturer seeking to obtain a retail license under this subsection (d) shall apply to the commission on such forms as the commission may prescribe.

(3) A retail license issued under this subsection (d) may be located only on the licensed premises of the manufacturers and may be located on such premises whether or not such premises is located in a jurisdiction which has authorized retail sale of alcoholic beverages pursuant to § 57-3-106.

(4) A manufacturer licensed to sell at retail at its retail location under this subsection (d) may sell only such products as are manufactured on the manufacturer's premises; provided, that at such retail location no more than five gallons (5 gal.) or one-sixth (⅙) of a barrel of its products may be sold to any one (1) individual per visit to the premises.

(5) [Deleted by 2021 amendment.]

(6) Notwithstanding any other law to the contrary, a retail licensee, held by a manufacturer or distiller, may serve samples of the product manufactured or distilled at the premises to any person of legal drinking age without cost or may include such samples as part of a tour of the manufacturer's or

distiller's premises available to the public with or without cost. Such samples may be made available at either the premises of the retailer or at such other location on the premises of the manufacturer or distiller holding such retail license which other location has been disclosed to the commission and may be any location on the premises permitted by federal law.

(7) If the retail license under this subsection (d) is held by a manufacturer of high alcohol content beer authorized to manufacture such beverages, then:

(A) Notwithstanding any other law, the retailer may sell its products at such retail location which are manufactured on the manufacturer's premises in accordance with subdivisions (d)(7)(B) and (C) in sizes and containers that are made available through the general wholesale/retail distribution system; provided, that subsection (e) related to the delivery of alcoholic beverages by wholesalers shall be applicable;

(B)(i) Such retailer may also offer and sell beer, as beer is defined in § 57-5-101(b), for consumption on or off-premises, at the same physical location at which it offers samples of and sells its high alcohol content beer; provided, that such beer and high alcohol content beer is brewed on the manufacturer's premises located at the retail location; and further provided, that such manufacturer may distribute such beer as defined in § 57-5-101(b) only to wholesalers licensed pursuant to chapter 5 of this title. A wholesaler of such products may permit a manufacturer to deliver its products to the retail premises operated by such manufacturer directly; provided, that the wholesaler permitting such direct shipment must include the amounts delivered in its inventory and depletions for purposes of tax collections;

(ii) Notwithstanding any other law to the contrary, the hours and days on which such beer or high alcohol content beer may be sold at retail by a manufacturer authorized to manufacture such beverages pursuant to § 57-2-103(f) shall be as set by the governing body of the local jurisdiction in which the manufacturer is located, and such governing body shall further have the authority to authorize the sale of high alcohol content beer and beer within the same store notwithstanding § 57-3-404(e)(1);

(C) Such retailer may sell no more than five gallons (5 gal.) or one-sixth (⅙) of a barrel of beer or high alcohol content beer or any combination of such beverages to any one (1) individual per visit to the premises.

(e)(1) A manufacturer licensed under chapter 2 of this title, or this chapter 3, may distribute alcoholic beverages or products containing alcohol only to a wholesaler licensed pursuant to § 57-3-203 where such alcoholic beverages or products are intended for sale at retail in this state; provided, however, that, where such alcoholic beverages are not intended for resale, a manufacturer may make complimentary distributions as allowed by § 57-3-404 and on a periodic basis to its employee or employees in the normal course of employment and to others not licensed under this chapter for routine business or marketing purposes. A wholesaler may permit a manufacturer to deliver its products to the retail premises operated by such manufacturer directly; provided, that the wholesaler permitting such direct shipment must include the amounts delivered in its inventory and depletions for purposes of

tax collections imposed pursuant to §§ 57-3-302, 57-6-201 and 57-3-501.

(2) No wholesaler may restrict the sale of its products to a retail license held by a manufacturer but must make its products available to any retailer licensed under this section.

(f)(1) Subsection (d) applies only in those jurisdictions where the voters have approved the sale of alcoholic beverages for off-premises consumption by referendum held pursuant to § 57-3-106 or where the voters have, by local option election, approved the issuance of such special retail license. A special local option election as authorized by this subsection (f), shall be conducted in the manner prescribed in § 57-3-106; provided, that the question submitted to the voters shall be in the following form:

To permit licensed manufacturers to obtain a license to sell alcoholic beverages at retail in _____ (here insert jurisdiction).

Not to permit licensed manufacturers to obtain a license to sell alcoholic beverages at retail in _____ (here insert jurisdiction).

(2) In any county having within its boundaries a manufacturer, where the voters of municipalities located within such county have approved the sale of alcoholic beverages, pursuant to § 57-3-106, and where the total population of such municipalities exceeds fifty percent (50%) of the population of the county, no such referendum shall be required; provided, that the authorized retail sales by a manufacturer where no referendum is required is not effective until January 1, 1995.

(g)(1) A restaurant licensed by the commission pursuant to § 57-4-101(a)(1) may also own, or operate, a separate retail license issued under this section to permit off-premise consumption, if such entity satisfies the further conditions of either subdivision (g)(2) or (g)(3).

(2)(A) Notwithstanding the restrictions of § 57-3-208, a restaurant or its affiliate may own or operate a license issued pursuant to § 57-3-204 if:

(i) The retail licensee is located within the same structure as the restaurant in a defined section or portion of the structure as approved by the commission;

(ii) The retail package store and the restaurant are located in a structure constructed prior to 1925 that is placed on the national register of historic places;

(iii) The structure within which such retail package store and restaurant are located shall not be closer than three hundred feet (300′) nor more distant than three hundred fifty feet (350′) from a federal interstate highway;

(iv) The structure within which such retail package store and restaurant are located shall be no farther than one hundred feet (100′) from a public park adjacent to a navigable waterway, and shall be no closer than five hundred feet (500′) nor more distant than five hundred fifty feet (550′) from a railway station providing commuter rail service that railway employs standard gauge locomotives and coaches; and

(v) The structure within which such retail package store and restaurant are located shall be located within a county having a metropolitan form of government with a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census.

(B) Notwithstanding § 57-3-208, the retail license issued pursuant to this subsection (g) to a restaurant or its affiliate shall be subject to the requirements of this title. It shall be the duty of the commission to verify that all persons owning or operating a retail license issued under this subdivision (g)(2) meet the qualifications to receive a license.

(3)(A) Notwithstanding the requirements of § 57-3-208, a restaurant, or its affiliate, may also own or operate a license issued pursuant to § 57-3-204, if:

(i) The location of the retail licensee is in the same structure as the restaurant; provided, the retail operations are conducted in a portion of the structure as identified to and approved by the commission;

(ii) The structure within which the restaurant and the retail licensee are located is situated on:

*(a)* A tract or tracts of land having at least twenty-four (24) contiguous acres;

*(b)* Land adjacent to a federal interstate highway; and

*(c)* Property no farther than two hundred fifty feet (250′) from a commercial railroad tract, upon which tracts of land there is a residence constructed prior to 1860 and upon which tracts is located a historic stable and carriage house;

(iii) The retail licensee is owned or authorized to be operated by an entity recognized as exempt from taxation under Internal Revenue Code Section 501(c)(3) (26 U.S.C. § 501(c)(3)); and

(iv) The retail licensee is located within a county having a metropolitan form of government with a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census.

(B) Notwithstanding § 57-3-208, any retail license issued pursuant to this subdivision (g)(3) shall be subject to the requirements of this title. It shall be the duty of the commission to verify that the entity owning or operating the retail license meets the qualifications of this subdivision (g)(3) and that all of the owners or operators authorized by the nonprofit entity to operate the license otherwise qualify under this title.

(h)(1) Notwithstanding this section or § 57-3-208, a terminal building of a commercial air carrier airport that is a member of the Tennessee Association of Air Carrier Airports may obtain a retail license under this section authorizing the licensee to sell alcoholic beverages at retail in accordance with this subsection (h).

(2) A retail license issued under subdivision (h)(1) authorizes a terminal building of a commercial air carrier airport to operate one (1) or more noncontiguous retail stores located within the area of the terminal building secured by the transportation security administration or its successor organization.

(3) A retail store licensed under this subsection (h):

(A) May sell alcoholic beverages that:

(i) Are manufactured within this state;

(ii) Are packaged in tamper-resistant sealed packages; and

(iii) Indicate on the packaging that the customer is prohibited from consuming the alcoholic beverage until the customer reaches the customer's final destination;

(B) Notwithstanding § 57-3-406(e) and (h), may sell alcoholic beverages on any day and during any hours during which the terminal building of a commercial air carrier airport is authorized to sell alcoholic beverages for on-premises consumption;

(C) May store inventory at one (1) or more secure locations other than the premises of the retail store that are located within the terminal building;

(D) May transfer and transport inventory to and from storage locations; and

(E) Shall not conduct consumer educational seminars or authorize its employees or agents to receive complimentary samples at a sales demonstration under § 57-3-404(h).

(4) Subsection (a) and subdivisions (b)(1), (2), (3)(A), and (3)(C) shall apply to retail stores licensed under this subsection (h).

(5) The commission shall verify that a terminal building of a commercial air carrier airport meets all qualifications for licensure under this subsection (h) prior to issuing a license.

(6) As used in this subsection (h), unless the context otherwise requires, "terminal building of a commercial air carrier airport" has the same meaning as defined in § 57-4-102.

**History.**

Acts 1939, ch. 49, § 8; 1945, ch. 167, § 5; 1949, ch. 284, §§ 4, 5; C. Supp. 1950, § 6648.13 (Williams, § 6648.11); impl. am. Acts 1963, ch. 251, § 20; Acts 1972, ch. 656, § 1; 1976, ch. 505, §§ 1, 2; 1977, ch. 461, § 1; T.C.A. (orig. ed.), § 57-117; Acts 1980, ch. 771, § 2; 1981, ch. 156, §§ 1, 2; 1984, ch. 746, § 1; 1988, ch. 836, § 1; 1990, ch. 794, §§ 1, 2; 1993, ch. 368, §§ 1, 2; 1995, ch. 214, § 1; 1995, ch. 396, §§ 4, 5; 1996, ch. 925, § 1; 1997, ch. 543, §§ 1-3; 2004, ch. 876, § 3; 2009, ch. 395, § 3; 2010, ch. 788, §§ 1, 2; 2010, ch. 1009, § 5; 2011, ch. 448, §§ 13, 15, 16; 2012, ch. 947, § 3; 2014, ch. 554, §§ 15, 27, 32; 2015, ch. 428, § 1; 2016, ch. 1068, § 1; 2018, ch. 783, §§ 5, 7-10; 2021, ch. 59, §§ 1-5.

**Amendments.**

The 2021 amendment deleted (b)(2)(A) which read: "Who has not been a bona fide resident of this state during the two-year period immediately preceding the date upon which application is made to the commission or, with respect to renewal of any license issued pursuant to this section, who has not at any time been a resident of this state for at least ten (10) consecutive years;", (b)(4) which read: "It is the intent of the general assembly to distinguish between licenses authorized generally under this title and those specifically authorized under this section. Because licenses granted under this section include the retail sale of liquor, spirits and high alcohol content beer which contain a higher alcohol content than those contained in wine or beer, as defined in § 57-5-101(b), it is in the interest of this state to maintain a higher degree of oversight, control and accountability for individuals involved in the ownership, management and control of licensed retail premises. For these reasons, it is in the best interest of the health, safety and welfare of this state to require all licensees to be residents of this state as provided herein and the commission is authorized and instructed to prescribe such inspection, reporting and educational programs as it shall deem necessary or appropriate to ensure that the laws, rules and regulations governing such licensees are observed."; deleted (d)(5) which read: "A retail license issued under this subsection (d) may be issued to a manufacturer, regardless of the residency or domicile of the manufacturer, notwithstanding the requirements imposed by subsection (b)."; substituted "citizenship or age" for "citizenship, residence requirements or age" in (b)(2)(K); and rewrote (b)(3) which read: "(3) The commission may, in its discretion, issue such a retail license to a corporation; provided, that no such license shall be issued to any corporation unless such corporation meets the following requirements:

"(A) No retail license shall be issued to any corporation if any officer, director or stockholder owning any capital stock in the corpora-

tion, would be ineligible to receive a retailer's license for any reason specified in subdivision (b)(2), if application for such retail license had been made by the officer, director or stockholder in their individual capacity;"

"(B) All of its capital stock must be owned by individuals who are residents of this state and either have been residents of the state for the two (2) years immediately preceding the date application is made to the commission or, with respect to renewal of any license issued pursuant to this section, who has at any time been a resident of this state for at least ten (10) consecutive years;

"(C) No person owning stock in such corporation shall have any interest as partner or otherwise, either direct or indirect, in any business licensed to engage in the distribution of liquor, spirits, wine or high alcohol content beer in Tennessee; and

"(D) No stock of any corporation licensed under this section shall be transferred to any person who is not a resident of this state and either has not been a resident of the state for at least two (2) years next preceding or who at any time has not been a resident of this state for at least ten (10) consecutive years."

**Effective Dates.**

Acts 2021, ch. 59, § 6. March 29, 2021.

**NOTES TO DECISIONS**

**5. Durational Residency Requirements Violated Dormant Commerce Clause.**

Liquor retailer residency requirements in T.C.A. § 57-3-204 violated the Dormant Commerce Clause as the Commerce Clause limited state alcohol regulations, and the durational residency requirements (DRR) were discriminatory on their face; the Twenty-first Amendment did not authorize states to impose DRR on the owners of liquor retailers and wholesalers as they were not inherent to a legitimate three-tier system, and DRR discriminated against nonresidents by creating a barrier to entering the Tennessee retail liquor market and favored Tennessee interests at the expense of interstate commerce. Byrd v. Tenn. Wine & Spirits Retailers Ass'n, — F. Supp. 2d —, 2017 U.S. Dist. LEXIS 58315 (M.D. Tenn. Apr. 14, 2017), aff'd, — F.3d —, 2018 FED App. 0035P, 2018 FED App. 35P, 2018 U.S. App. LEXIS 4081 (6th Cir. Feb. 21, 2018).

Two-year residency requirement for retail license applicants violates the Commerce Clause because not only is the requirement ill suited to promote responsible sales and consumption practices, an interest the United States Supreme Court recognizes as legitimate, but there are obvious alternatives that better serve that goal without discriminating against nonresidents; the State remains free to monitor the practices of retailers and to take action against those who violate the law. Tenn. Wine & Spirits Retailers Ass'n v. Thomas, — U.S. —, 139 S. Ct. 2449, 204 L. Ed. 2d 801, 2019 U.S. LEXIS 4399 (June 26, 2019).

Because the predominant effect of the 2-year residency requirement for retail license applicants is simply to protect the Tennessee Wine and Spirits Retailers Association's members from out-of-state competition and has little relationship to public health and safety, that provision violates the Commerce Clause and is not saved by U.S. Const. amend. 21, § 2; the 2-year durational-residency requirement plainly favors Tennesseans over nonresidents. Tenn. Wine & Spirits Retailers Ass'n v. Thomas, — U.S. —, 139 S. Ct. 2449, 204 L. Ed. 2d 801, 2019 U.S. LEXIS 4399 (June 26, 2019).

Two-year residency requirement for retail license applicants violates the Commerce Clause because it expressly discriminates against nonresidents and has at best a highly attenuated relationship to public health or safety; the 2-year residency requirement poorly serves the goal of enabling the State to ensure that only law-abiding and responsible applicants receive licenses, and it is not needed to enable the State to maintain oversight over liquor store operators. Tenn. Wine & Spirits Retailers Ass'n v. Thomas, — U.S. —, 139 S. Ct. 2449, 204 L. Ed. 2d 801, 2019 U.S. LEXIS 4399 (June 26, 2019).

## 57-3-207. Grape and Wine Law.

(a) This section shall be known and may be cited as the "Grape and Wine Law." This section shall prevail over any conflicting statutory provision.

(b) A winery license may be issued as provided in this section for the manufacture of alcoholic vinous beverages, as defined in § 57-3-101, upon a verified, written application to the commission on the proper form authorized to be prescribed and furnished in this section, and the application may be granted by the commission, subject to the restrictions of this chapter. Any winery license issued pursuant to this section shall authorize the holder of the

license to manufacture, but not rectify, alcoholic vinous beverages, unless the holder of the license is also a distiller or rectifier, or both, holding a license to distill or rectify, or both, alcoholic spirituous beverages, and the winery license shall authorize the holder of the license to place the alcoholic vinous beverages in containers or bottles. Out-of-state wineries may apply for and obtain a winery license issued in accordance with this section.

(c) Each applicant for a winery license issued pursuant to this section shall pay to the commission a one-time, nonrefundable fee in the amount of three hundred dollars ($300) when the application is submitted for review. The license shall not be issued until a license fee of one hundred fifty dollars ($150) is paid to the commission by the winery, but issuance of the license is exempt from the requirements of § 57-3-106. The commission shall deposit collections with the state treasurer to be earmarked for and allocated to the commission for the purpose of the administration and enforcement of the duties, powers and functions of the commission.

(d) No winery license shall be issued except to persons who have not been convicted, and whose officers and principals have not been convicted, within a period of five (5) years preceding application of any felony or any violation of any state or federal laws relating to alcoholic beverages.

(e) Notwithstanding this section, a private individual in that person's own home may manufacture wine in an amount not in excess of that amount annually permitted as of March 22, 1973, by federal statute and regulations relative to household manufacture and consumption; provided, that the wine is for personal consumption by members of that person's household.

(f)(1) A winery licensed under this section may, to the extent permitted under federal law, serve wine, with or without charge, as samples for tasting on the premises at the winery and may sell wine at retail in sealed containers at the winery.

(2) A winery licensed under this section may donate wine without charge to nonprofit religious, educational or charitable institutions or associations.

(3) For purposes of this section, "premises" means any and all of the real property owned or leased by the winery.

(g) A winery licensed under this section may exchange wine in bulk with other wineries and the bulk exchange, whether in return for wine or other consideration, shall not be considered a sale subject to tax.

(h)(1) In addition to its own wine, a winery or farm winery permit holder is authorized to sell at retail items related to or incidental to the use, consumption, dispensing, or storage of wine on the licensed premises. Such items may include, but are not limited to:

(A) Juices or concentrates derived from juices, or any agricultural products;

(B) Items used in home winemaking;

(C) Gift or tourism related items including baskets or gift cards;

(D) Utensils and supplies related or incidental to the use, consumption, dispensing or storage of wine, including, without limitation, wine glasses, corkscrews, beverage strainers, pourers, flasks, jiggers, stirrers, wine racks, wine refrigerators, wine cellars, pouring aids, coasters, bottle stoppers, decanters, carafes, glassware, ice crushers, bottle openers, can

openers, and devices to maximize oxidation in uncorked wine bottles and other items used in connection with the consumption, storage, or dispensing of wine;

(E) Fruit, cheese, appetizers, chips, pretzels, and other snack foods or food items served to pair with wine;

(F) Nonalcoholic beverages;

(G) Ice, beverage coolers, and ice chests;

(H) Articles of clothing, accessories, and souvenir items imprinted with advertising, logos, slogans, trademarks, or messages related to wine or the winery's name;

(I) Smoking or tobacco related products; and

(J) Wine literature, cookbooks, or periodicals.

(2)(A) A winery or farm winery permit holder is not authorized to sell at retail:

(i) Distilled spirits;

(ii) Except as otherwise provided in subsection (v), wine that is not manufactured or bottled on the licensed premises, or in the case of a farm winery permit holder, wine that was not made pursuant to subsection (o); or

(iii) Beer.

(B) Nothing in this subsection (h) shall prohibit a winery or farm winery permit holder from holding a license pursuant to § 57-4-101, as authorized by subsection (s), and engaging in the activities permitted under such license.

(C) Nothing in this subsection (h) shall prohibit a winery or farm winery permit holder from holding a beer license for on-premises consumption and engaging in the activities permitted under such license.

(3)(A) A winery licensed under this section that satisfies the requirements of subdivision (h)(3)(B) may sell alcoholic beverages on the premises of the winery if the label of the alcoholic beverage product sold contains the name of the winery or is so intrinsically related to the property upon which the winery is located as to be identified as a product of or created for the winery.

(B) A winery exercising the rights conferred by subdivision (h)(3)(A) must satisfy the following requirements:

(i) The winery is located on a tract or tracts of land having at least twenty-four (24) contiguous acres;

(ii) The winery is located on property adjacent to a federal highway;

(iii) The winery is located on property with a commercial railroad track not more than two hundred fifty feet (250′) from the nearest property line;

(iv) The winery is located on property with a structure that was originally constructed prior to 1860 as a private residence;

(v) The winery is located on property that is leased or owned by a not-for-profit corporation exempt from federal income taxation under § 501(c)(3) of the Internal Revenue Code; and

(vi) The winery is located on property located within the jurisdictional limits of a county with a metropolitan form of government having

a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census.

(i) A winery licensed under this section located in this state may sell no more than five (5) cases or sixty (60) liters of wine to any single retail customer in one (1) day. It shall be legal for any purchaser of wine from a winery licensed under this section to transport into and within this state no more than five (5) cases or sixty (60) liters of wine in one (1) day. Any wine transported pursuant to this section must be accompanied by a bill of sale sufficiently identifying the nature, quantity, purchaser, date and place of purchase of the wine. Bills of sale purchased from out-of-state wineries licensed under this section must reflect that the wine was purchased for transport into this state and that Tennessee taxes have been paid. Any person transporting such wine in excess of five gallons (5 gals.) shall have with the shipment a receipt or other documentation demonstrating that the wine was purchased from a winery as licensed in this section.

(j) Any licensee or other person who sells, furnishes, disposes of, gives or causes to be sold, furnished, disposed of or given, any wine in this state or for transport into this state, to any person under the age of majority as established by § 57-4-203(b), commits a Class A misdemeanor.

(k) The commission is empowered and authorized to promulgate such rules and regulations as may be necessary to carry out the duties of the commission as provided in this section, including, but not limited to, procedures governing the production, sale and transportation of wine. The commissioner of revenue shall establish procedures governing the keeping of records for tax purposes and the payment of taxes by a winery licensed under this section; and for any failure to comply with the procedures, the commissioner shall notify the commission, which is authorized to revoke or suspend the license of any winery.

(*l*) It is the duty of the commissioner of agriculture to disseminate the best information available as to the methods of cultivation of crops that may be utilized in Tennessee for the production of wine and the methods of making such wines. It is also the duty of the commissioner to establish reasonable procedures requiring proper sanitary conditions about the winery and to certify that these conditions have been met before the commission issues any license. The commissioner shall establish reasonable procedures requiring the process of producing wine to be carried on under proper sanitary conditions and in a sanitary manner; and for any failure to comply with the procedures, the commissioner shall notify the commission, which is authorized to revoke or suspend the license of any winery.

(m)(1) Any nonprofit association organized to encourage and support grape growing and winemaking with ten (10) or more wineries licensed under this section as members shall be allowed to hold not more than twelve (12) wine festivals per calendar year. Each festival shall not exceed a period of seventy-two (72) hours.

(2) Any winery licensed under this section participating in a festival authorized by this subsection (m) shall be allowed to transport, serve and offer complimentary samples of their wines for tasting at the festival. The complimentary sample size shall be restricted to a one ounce (1 oz.) serving

with only one (1) sample per person for each type of wine.

(3) Any winery licensed under this section participating in a festival authorized by this subsection (m) shall be allowed to transport wine produced by that winery to sell at the festival for consumption off-premises.

(4)(A) Any nonprofit association authorized by this subsection (m) to hold a wine festival shall apply for a special occasion license as defined in § 57-4-102, in order for participating wineries licensed under this section to serve complimentary samples as described in subdivision (m)(2) and to sell wine produced by the wineries for consumption off-premises.

(B) Notwithstanding § 57-4-102(34)(A), a special occasion license issued for a wine festival authorized by this subsection (m) shall be for the duration of the festival for which application is made for a period not to exceed seventy-two (72) hours. A special occasion license issued pursuant to this subsection (m) shall only be available upon the payment of the fee as required by law for each separate day of the festival.

(C) A nonprofit association authorized to conduct a wine festival pursuant to this subsection (m) shall be permitted to hold the festival in any municipality or county of the state in the manner provided in subdivision (m)(5).

(5) A nonprofit association, as defined in subdivision (m)(1), is authorized to conduct a wine festival pursuant to this subsection (m) in a municipality or county of this state that has approved the sale of alcoholic beverages or has a licensed winery located in that municipality or county, subject to complying with all permit requirements of the municipality or county, and in all other municipalities or counties upon receiving approval of the legislative body of the municipality or county to hold such a festival at a location and in such manner authorized by such legislative body.

(n) If any provision of this section or application of this section to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to that end the provisions of this section are declared to be severable.

(o)(1) As used in this subsection (o):

(A) "Farm" means a farming operation located in Tennessee consisting of commercial vineyards, fruit orchards or fruit gardens or any combination of such farming operations;

(B) "Farm wine producer" means a farm which produces its own locally grown product from a vineyard, fruit orchard or fruit garden or any combination of such farming operations to be used in the making of wine; and

(C) "Wine" means an alcoholic beverage containing a minimum of ninety-five percent (95%) of the product of vineyards, fruit orchards or fruit gardens grown and harvested at a farm as the wine being sold by the farm wine producer.

(2) A farm wine permit may be issued as provided in this subsection (o) to a farm wine producer, upon verified, written application to the commission on the proper form authorized to be prescribed and furnished by the commission, and the application may be granted by the commission, subject

to the further restrictions of this chapter, other than § 57-3-106.

(3) Each applicant for a farm wine permit shall pay to the commission a one-time, nonrefundable fee in the amount of three hundred dollars ($300) when the application is submitted for review. The permit shall not be issued until a permit fee of one hundred and fifty dollars ($150) is paid to the commission by the farm wine producer, but issuance of the permit is exempt from the requirements of § 57-3-106. The commission shall deposit collections with the state treasurer to be earmarked for and allocated to the commission for the purpose of the administration and enforcement of the duties, powers and functions of the commission.

(4) The holder of a farm wine permit may:

(A) Transport or have transported produce grown on the farm to a winery licensed pursuant to subsection (b), for the manufacture, bottling and labeling of unfortified wine from such produce;

(B) Receive such wine back from the winery manufacturing, bottling and labeling the wine for the farm wine producer;

(C) Offer on the premises of the farm single servings of its wine, with or without charge, as tastings for each wine sample; and

(D) Sell at retail on the premises of the farm sealed containers of wine made from the produce of its vineyard, orchard or fruit garden in a designated building or area.

(5) Subsections (d), (h), (i), (j), (m), (n), and (q) which apply to wineries shall also apply to farm wine permittees.

(p)(1) A winery licensed under this section is authorized to receive produce from a farm wine producer grown on the farm for the purpose of manufacturing, bottling and labeling of wine for such producer. The wine label shall indicate the name of the farm where the fruit was grown and harvested and the name of the winery manufacturing, bottling and labeling such wine.

(2) Such winery shall be responsible for the payment of the state gallonage tax imposed pursuant to § 57-3-302 and the federal alcoholic beverage excise taxes due and owing on the wine bottled by the winery prior to the bottled wine leaving the winery's bonded premises.

(3) The winery is authorized to transport the wine from the winery back to the farm wine permit holder, notwithstanding § 57-3-107(b) or any other law to the contrary. It is lawful for common carriers to transport from the winery which manufactured, bottled and labeled such wine to the farm permit holder pursuant to an agreement or contract with a licensed winery.

(q)(1) A winery licensed under this section that has a total annual wine production of fifty thousand gallons (50,000 gals.) or less shall be authorized to obtain an additional self-distribution permit from the commission subject to the obligations imposed in this subsection (q).

(2) No self-distribution permit shall be issued to or held by a winery that has registered a distribution contract with a wholesaler licensed pursuant to § 57-3-203, if the terms of that contract include distribution rights for a county that is located, in whole or in part, within one hundred (100) miles of the licensed winery where the wine being distributed has been manufactured, produced, or bottled. Any winery holding a self-distribution permit that registers such a distribution contract with a wholesaler or whose total

output in a calendar year exceeds fifty thousand gallons (50,000 gals.) shall cease self-distributing its wine under subdivision (q)(3) and shall promptly surrender the winery's self-distribution permit.

(3) A winery seeking a self-distribution permit under this subsection (q) may distribute not more than three thousand (3,000) cases of wine manufactured, produced, or bottled on the winery's premises to any licensee holding a license issued pursuant to chapter 4, part 1 of this title, located within one hundred (100) miles of the winery's premises where such wine has been manufactured, produced, or bottled.

(4) A winery engaged in self-distribution under this section shall be responsible for all taxes and records which are imposed upon a wholesaler under § 57-3-203 which result from any direct sales under this subsection (q).

(5) The commission shall impose no additional fee or charge for the issuance of a self-distribution permit under this section.

(r)(1) For purposes of this subsection (r), "satellite facility" means any facility or location other than the primary business location of a winery or farm wine producer.

(2) Any winery or any farm wine producer licensed by this section may conduct business at any two (2) satellite facilities in any jurisdiction where it is lawful to manufacture intoxicating liquors or intoxicating drinks pursuant to § 57-2-103(c) and (d). At its satellite facilities, the winery may conduct any business that is authorized at the licensed winery, except for the manufacturing and bottling of wine. At its satellite facilities, a farm wine producer may conduct any business that is authorized at the premises of the farm wine producer.

(3)(A) Any winery licensed by this section or any farm wine producer shall obtain a satellite permit for each satellite facility utilized by the winery or farm wine producer from the commission in order to:

(i) Serve samples with or without charge;

(ii) Sell wine for consumption on or off the permitted premises; and

(iii) Sell any other products under subsections (h) and (o).

(B) In addition to the permit authorized in subdivision (r)(3)(A), any winery licensed under this section that pays taxes under § 57-3-302(a) at its licensed facility on fifty thousand gallons (50,000 gals.) or less of wine or finished wine product each calendar year or any farm wine producer licensed under this section may qualify for a satellite permit to authorize no more than three (3) such wineries, farm wine producers, or any combination thereof, to conduct business at one (1) satellite facility.

(C) Any violation of any rule or statute by a satellite facility shall be deemed to be a violation by any winery or farm winery producer that participates in a satellite facility.

(D) Any winery or farm winery producer, seeking to establish or operate a satellite facility shall disclose to the commission each winery or farm winery producer participating in the satellite facility. Any participant in a satellite facility shall provide any information requested by the commission prior to participating in the satellite facility.

(4) A satellite permit issued to a winery or farm wine producer pursuant to this subsection (r) shall only be available upon the payment of a one-time

application fee to the commission of three hundred dollars ($300) per satellite location and upon the payment of an annual license fee of one hundred fifty dollars ($150).

(5)(A) Any winery or farm wine producer licensed under this section that has obtained a satellite permit and elects to charge consumers for samples may only sell such samples that are manufactured by the winery or farm wine producer.

(B) [Deleted by 2019 amendment.]

(6)(A) Wineries and farm wine producers that pay taxes under § 57-3-302(a) at their licensed facility on more than fifty thousand gallons (50,000 gals.) of wine during a calendar year and that operate a satellite facility shall obtain wine provided at their satellite facilities from a wholesaler licensed pursuant to § 57-3-203. The wholesaler may permit the winery or farm wine producer to transport wine or finished wine product from the winery or the farm to its satellite facilities; provided, that the wholesaler includes the amounts delivered in its inventory, reports depletions for purposes of tax collection, and is responsible for the payment of taxes on such depletions.

(B) Wineries and farm wine producers that pay taxes under § 57-3-302(a) at their licensed facility on fifty thousand gallons (50,000 gals.) or less of wine or finished wine product each calendar year are not required to obtain wine provided at their satellite facilities from a wholesaler. Wineries may transport wine or finished wine product from their wineries to their satellite facilities. Wineries may transport wine made from produce from farm wine producers to the producers' satellite facilities. Farm wine producers may transport wine from their farm to their satellite facilities.

(C) Wine and finished wine product sold for consumption on the premises at the satellite facilities are subject to the same taxation as wine sold for consumption on the premises at the winery or on the premises of the farm wine producer.

(s)(1) Any winery or farm wine producer licensed pursuant to this section may qualify for and hold a license under chapter 4 of this title as a restaurant or limited service restaurant; provided, that notwithstanding chapter 4 of this title related to restrictions or prohibitions on licensees under chapter 4 of this title, a restaurant or limited service restaurant may sell for off-premises consumption, wine manufactured pursuant to this section at such location or at any other restaurant or limited service restaurant licensed under chapter 4 of this title that is owned by the same person.

(2) Notwithstanding any law, rule, or regulation to the contrary, any winery or farm wine producer licensed under this section may serve wine manufactured by the winery or the farm wine producer for consumption on the premises of the winery or farm wine producer.

(t)(1) Except as provided in subdivision (t)(2), any sale of wine authorized by this section for consumption on the premises at the winery or on the premises of the farm wine producer shall be subject to taxation pursuant to § 57-4-301(c) in addition to any sales tax which is due. The taxes shall be paid and collected in the manner prescribed by § 57-4-301 and the rules of

the department of revenue promulgated under the authority of that section.

(2) Nothing in this section authorizes the collection of taxes pursuant to § 57-4-301(c) for the sale of wine:

(A) As samples for tasting, with or without charge, for consumption on the premises; or

(B) At retail in sealed containers for consumption on the premises to the extent permitted under federal law.

(u) Notwithstanding the term "wine" as defined in §§ 57-3-101, 57-3-802, and 57-4-102, wineries and farm wine producers licensed under this section may label and advertise wine made from apples as cider, apple cider, or hard cider; provided, that nothing in this subsection (u) shall affect the marketing of cider products distributed as beer by wholesalers permitted under § 57-5-103.

(v)(1) Notwithstanding any other law to the contrary, a winery or farm wine permit holder may purchase or import finished wine product from another winery in this state or another state in an amount not to exceed, in the aggregate, fifty thousand gallons (50,000 gals.) per year. A winery or farm wine permit holder that purchases or imports finished wine product under this subdivision (v)(1) may sell, distribute, serve for the purposes of samples or tastings, or otherwise use or dispose of such product in any manner that the winery or farm wine permit holder is authorized to use or dispose of wine under this section that is manufactured, bottled, or produced by the winery or farm wine permit holder.

(2) [Deleted by 2019 amendment.]

(w) As used in this section, "finished wine product" means any wine product that is ready for use by an end user and that bears the label of the winery or farm wine permit holder that purchased or imported the finished wine product under subsection (v).

(x) Wholesalers utilized by wineries or farm wine producers may permit wineries and farm wine producers to transport their products for sale, which are sold on the premises of the winery, the farm wine producer, or the satellite facility; provided, that the wholesaler permitting such direct shipment shall include the amounts delivered in its inventory, report depletions for purposes of tax collection, and be responsible for the payment of taxes on such depletions.

**History.**

Acts 1939, ch. 49, § 9; 1949, ch. 284, §§ 4, 5; C. Supp. 1950, § 6648.14 (Williams, § 6648.12); impl. am. Acts 1963, ch. 257, § 23; Acts 1973, ch. 8, § 1; 1977, ch. 126, §§ 1, 2; T.C.A. (orig. ed.), § 57-120; Acts 1983, ch. 59, § 1; 1983, ch. 229, §§ 1-3; 1985, ch. 386, §§ 1, 3, 4; 1988, ch. 580, §§ 1-3; 1991, ch. 292, § 1; 1995, ch. 151, § 1; 2001, ch. 163, §§ 1-3; 2004, ch. 876, § 2; 2006, ch. 826, § 1; 2007, ch. 433, §§ 1, 2; 2009, ch. 273, § 1; 2009, ch. 434, § 4; 2012, ch. 691, § 1; 2014, ch. 817, § 1; 2014, ch. 1015, §§ 1-5; 2015, ch. 270, § 1; 2015, ch. 366, § 1; 2015, ch. 451, § 1; 2015, ch. 467, § 1; 2016, ch. 687, § 1; 2016, ch. 857, § 1; 2017, ch. 269, §§ 1-5; 2017, ch. 373, §§ 1, 2; 2017, ch. 411, § 1; 2019, ch. 74, §§ 1-5.

**Amendments.**

The 2019 amendment substituted "that pays taxes under § 57-3-302(a) at its licensed facility on fifty thousand gallons (50,000 gals.) or less of wine or finished wine product each calendar year" for "that has a total annual wine production of fifty thousand gallons (50,000 gals.) or less" in (r)(3)(B); deleted the former last sentence in (r)(5)(A), which read: "Any wine provided at the satellite facility for sales, whether for tastings, for consumption on the premises, and for consumption off the premises, shall be obtained from a wholesaler licensed pursuant to § 57-3-203."; deleted former (r)(5)(B), which read: "A wholesaler of the winery or farm wine producer's products may permit a winery or farm wine producer to deliver

for sale products which are sold on the premises of the winery, the farm wine producer, or the satellite facility; provided, that the wholesaler permitting such direct shipment shall include the amounts delivered in its inventory, report depletions for purposes of tax collection, and be responsible for the payment of taxes of such depletions."; added (r)(6); deleted former (v)(2) which read: "As used in this subsection (v), "finished wine product" means any wine product that is ready for use by an end user and that bears the label of the winery or farm wine permit holder that purchased or imported the finished wine product under this subsection (v)."; and added (w) and (x).

**Effective Dates.**

Acts 2019, ch. 74, § 6. March 28, 2019.

## 57-3-208. Certificate required — Contents — Exceptions.

(a) As a condition precedent to the issuance of a license under § 57-3-204, every applicant for a license under that section shall submit with the application to the commission a certificate signed by the county mayor or chair of the county commission in which the licensed premises are to be located if outside the corporate limits of a municipality or, if within a municipality, from the mayor or a majority of the commission, city council, or legislative body of the municipality, by whatsoever name designated, or if the municipality has no mayor, from the highest executive of the municipality.

(b)(1) The certificate must state:

(A) That the applicant or applicants who are to be in actual charge of the business have not been convicted of a felony within a ten-year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten-year period immediately preceding the date of the application;

(B) That the applicant or applicants have secured a location for the business which complies with all restrictions of any local law, ordinance, or resolution, duly adopted by the local jurisdiction, as to the location of the business;

(C) That the applicant or applicants have complied with any local law, ordinance or resolution duly adopted by the local authorities regulating the number of retail licenses to be issued within the jurisdiction;

(D) [Expired effective July 1, 2021. See the Compiler's Notes.]

(E) The certificate remains valid unless there is a change of ownership or location. If either of these events occurs, a new certificate must be obtained prior to renewal.

(2) Each applicant or officer identified in subdivision (b)(1)(A) must obtain and submit with the certificate a local and national criminal history record obtained from a third party using a multistate criminal records locator or other similar commercial nationwide database with validation. A criminal history record that indicates that the applicant or officer has not been convicted of a felony within the immediately preceding ten-year period serves as proof satisfactory that the applicant or officer has complied with subdivision (b)(1)(A).

(c) Municipalities and counties are hereby authorized to limit the location of retail liquor stores and the number of licenses issued within their jurisdictions. No local law, ordinance or resolution may limit the location and number of licenses authorized under § 57-3-204, so as to unreasonably restrict the availability of alcoholic beverages for the residents of such municipalities and

counties. A local jurisdiction may impose reasonable residency requirements on any applicant. However, if a local jurisdiction does impose such residency requirements, such local jurisdiction shall not be authorized to impose any residency requirement on any applicant who has been continuously licensed pursuant to § 57-3-204 for seven (7) consecutive years.

(d) An applicant may seek review of the denial of a certificate by instituting an action in the chancery court having jurisdiction over the municipality or county within sixty (60) days of the denial.

(e) A failure on the part of the issuing authority to grant or deny the certificate within sixty (60) days of the written application for such shall be deemed a granting of the certificate.

(f) The requirement imposed by this section to submit a certificate shall not be applicable to any applicant if:

(1) The authority of the county or municipality charged with the responsibility to issue the certificate required herein shall have failed to grant or deny the certificate within sixty (60) days after written application for such certificate is filed; or

(2) The applicant submits a final order of a court holding that the denial of the required certificate was unreasonable, as established by subsections (c) and (d).

**History.**

Acts 1939, ch. 49, § 9a, as added by Acts 1949, ch. 284, § 5; C. Supp. 1950, § 6648.14a (Williams, § 6648.12a); Acts 1951, ch. 52, § 2; impl. am. Acts 1963, ch. 257, § 24; Acts 1976, ch. 438, § 2; impl. am. Acts 1978, ch. 934, §§ 7, 16, 36; T.C.A. (orig. ed.), § 57-121; Acts 1980, ch. 894, § 1; 1981, ch. 84, §§ 1, 2; 1993, ch. 451, §§ 1, 2; 2003, ch. 90, § 2; 2015, ch. 269, § 2; 2017, ch. 357, § 1; 2018, ch. 783, § 12; 2019, ch. 136, § 4.

**Compiler's Notes.**

Acts 2018, ch. 783, § 14 provided that sections 7 through 12 of the act shall be repealed on July 1, 2021, and the provisions of this section and §§ 57-3-204 and 57-3-212 as they existed prior to being amended by Sections 7 through 12 of the act shall be reinstated.

**Amendments.**

The 2018 amendment, effective until July 1, 2021, added (b)(1)(D) which read: "For any applicant or applicants acquiring the right to purchase from an existing licensee and transferring the license to another location, that the new location is not within one thousand five hundred feet (1,500′) of another location engaged in the retail sale of alcoholic spirituous beverages and is located within the same jurisdiction wherein the transferor premises was located."

The 2019 amendment added (b)(1)(E).

**Effective Dates.**

Acts 2018, ch. 783, § 14. April 20, 2018.

Acts 2019, ch. 136, § 6. August 1, 2019.

## 57-3-213. Expiration of licenses — Renewal.

(a) Each license shall expire twelve (12) months following the date of its issuance. The commission is authorized to issue renewal licenses for all qualified persons licensed as of July 1, 1981 for a period of time greater than three (3) months but less than a year so as to distribute expiration dates throughout the year, for the year following July 1, 1981 only. The license fee or the proportionate part thereof prescribed by this chapter shall be paid in advance at the time the application for renewal is made as provided by this chapter.

(b) Each license issued pursuant to this chapter may be renewed upon application therefor by the licensee. The renewal application shall be accompanied by the payment of the annual fee for such license. Each license shall

automatically expire twelve (12) months from the date of its issuance unless the licensee has filed a renewal application and paid the annual license fee or privilege tax required by this title.

(c) The commission shall consider the application with all other evidence which it may obtain by investigation or otherwise in determining whether the license is to be renewed. The commission shall make such order, as the entire record justifies, granting or refusing the renewal application, and such order shall be effective from its date. If the license is not renewed, the applicant is entitled to the hearing and notice requirements as set out in § 57-3-214.

(d) [Deleted by 2019 amendment.]

**History.**

Acts 1939, ch. 49, § 14; 1949, ch. 284, § 6; C. Supp. 1950, § 6648.17; Acts 1951, ch. 52, § 5; impl. am. Acts 1963, ch. 257, § 29; Acts 1976, ch. 438, § 1; T.C.A. (orig. ed.), § 57-126; Acts 1981, ch. 152, § 2; 1982, ch. 577, § 1; 1985, ch. 76, § 1; 2019, ch. 136, § 1.

**Amendments.**

The 2019 amendment, effective August 1, 2019, deleted former (d) which read: "(d) In addition to these requirements the application for license renewal shall be accompanied by a certificate as set forth in § 57-3-208, which certificate shall be valid for two (2) years. A new certificate shall be required every other year, to be submitted with the application for renewal."

**Effective Dates.**

Acts 2019, ch. 136, § 6. August 1, 2019.

## 57-3-217. Winery direct shipper's license.

(a) Any person, firm or corporation that holds a federal basic permit pursuant to the Federal Alcohol Administration Act (27 U.S.C. § 201 et seq.), and is in the business of manufacturing, bottling or rectifying wine may apply to the commission for a winery direct shipper's license under this section. Applicants for a winery direct shipper's license shall submit to the commission a copy of the federal basic permit and a permit for the manufacturing, bottling, or rectification of wine from the state where such wine is produced.

(b) A winery direct shipper, meeting the requirements of this section, may make sales and delivery of wine, as defined in § 57-3-101, by common carrier to the citizens of this state over the age of twenty-one (21) who have purchased the wine directly from the winery direct shipper, subject to the limitations and requirements imposed by this section; provided, that a winery direct shipper may only ship wine sold under a brand name owned by or licensed to the winery or farm winery, which is either:

(1) Produced by the winery or farm winery, including manufactured in a manner authorized pursuant to § 57-3-207;

(2) Produced exclusively for the winery or farm winery under an existing written contract with the winery or farm winery; or

(3) Produced and bottled exclusively for the winery or farm winery.

(c) As a condition to the issuance or renewal of a winery direct shipper's license as authorized in this section, an applicant for the license must satisfy the following conditions:

(1) Pay to the commission a one-time nonrefundable fee in the amount of three hundred dollars ($300) when the application is submitted for review. A winery direct shipper's license under this section shall not be issued until the applicant has paid to the commission the annual license fee of one hundred fifty dollars ($150);

(2) Execute a consent to jurisdiction and venue of all actions brought before the commission, any state agency or the courts of this state, such that any and all hearings, appeals and other matters relating to the license of the winery direct shipper shall be held in this state;

(3) Acknowledge, in writing, that it will contract only with common carriers that agree that any delivery of wine made in this state shall be by face-to-face delivery and that deliveries will only be made to individuals who demonstrate that the individuals are over twenty-one (21) years of age and the individuals sign upon receipt of the wine.

(d)(1) No winery direct shipper may ship more than a total of nine (9) liters of wine to any individual during any calendar month nor shall the shipper ship more than twenty-seven (27) liters of wine to any individual in any calendar year.

(2) Notwithstanding subdivision (d)(1), a winery direct shipper that produces or manufactures less than two hundred seventy thousand (270,000) liters of wine per calendar year may ship up to fifty-four (54) liters of wine to an individual per calendar year.

(3) Any shipment of wine pursuant to this section shall be made only in containers that clearly indicate on the exterior of the container, visible to a person at least three feet (3′) away, that the container "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY".

(e)(1) A winery direct shipper shall be responsible for remitting all sales taxes due resulting from any sale made under this section. In addition to all sales taxes imposed upon such sale, a winery direct shipper shall remit the gallonage tax as imposed by § 57-3-302.

(2) The taxes levied on sales made by a winery direct shipper as authorized by this section shall become due and payable on the first day of each month following the month during which the sales occur, and shall become delinquent if not paid on or before the twentieth day of each such following month. For the purpose of ascertaining the amount of tax due, it is the duty of any winery direct shipper licensed pursuant to this section to transmit to the commissioner of revenue appropriate returns on forms prescribed by the commissioner.

(3) Upon request of the commission or its designated agent, any winery direct shipper licensed pursuant to this section shall provide to the commission, under penalty of perjury, a list of any wine shipped to an address within this state, including the addressee.

(4) The commission may enforce the requirements of this section by administrative action, may suspend or revoke a winery direct shipper's license and may accept an offer in compromise in lieu of suspension.

(5) A winery direct shipper that is found to have violated this title, in addition to any fine imposed by the commission, shall reimburse the commission for all costs incurred in connection with the investigation and administrative action, including the out-of-pocket costs and reasonable personnel costs.

(6) No winery direct shipper may avoid liability under this section by subcontracting with a third party to perform its obligations required pursuant to this section.

(f) The commission and the department of revenue are authorized to promulgate rules and regulations that may be necessary to implement this section, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(g)(1) It is an offense for a person who does not possess a winery direct shipper's license to ship wine to residents of this state.

(2) A violation of subdivision (g)(1) is a Class E felony, punishable by a fine only.

(h)(1) Each common carrier that contracts with a winery direct shipper under this section for delivery of wine, beer, or other alcoholic beverages into this state shall prepare and file monthly with the department of revenue a report of known wine, beer, or other alcoholic beverage shipments containing the name of the common carrier making the report, the period of time covered by the report, the name and business address of the consignor, the name and address of each consignee, the weight of the package delivered to each consignee, a unique tracking number, and the date of delivery. Reports received by the department of revenue must be made available to the public pursuant to the open records law, compiled in title 10, chapter 7.

(2) Upon the request of the commissioner of revenue, any records supporting the report must be made available to the department of revenue within a reasonable time after the commissioner makes a written request for such records. Any records containing information relating to such reports must be retained and preserved for a period of two (2) years, unless destruction of the records prior to the end of such retention period is authorized in writing by the department of revenue. Such records must be open and available for inspection by the department of revenue upon written request. Reports must also be made available to any law enforcement agency or regulatory body of any local government in this state in which the common carrier making the report resides or does business.

(3) Any common carrier that willfully fails to make reports in accordance with this section or that violates any rules of the department of revenue for the administration and enforcement of this section is subject to a notification of violation. If a common carrier continually fails to make reports, the common carrier may be fined in an amount not to exceed five hundred dollars ($500) for each delivery not reported to the department of revenue. Unpaid fines assessed under this subdivision (h)(3) must be collected in accordance with title 67, chapter 1.

(4) This subsection (h) does not apply to common carriers regulated under 49 U.S.C. §§ 10101 et seq., or to rail trailer-on-flatcar/container-on-flatcar (TOFC/COFC) service, as defined in 49 CFR § 1090.1, or highway TOFC/COFC service provided by a rail carrier, either itself or jointly with a motor carrier, as part of continuous intermodal freight transportation, including, without limitation, any other TOFC/COFC transportation as defined under federal law.

(i) **[Effective January 1, 2022.]** Notwithstanding any law to the contrary, a fulfillment house, as defined in Section 4 of this act, is not eligible for licensure or renewal of a winery direct shipper's license.

(j) **[Effective January 1, 2022.]** A winery direct shipper licensee shall maintain records for a minimum of three (3) years from the shipment date,

which shall include:

(1) The name, address, and license number of the fulfillment house used, if any;

(2) The name of the common carrier, if no fulfillment house is used;

(3) The date of each shipment;

(4) The carrier tracking number;

(5) The quantity, by weight or other means, the sales price, and product type of wine shipped; and

(6) The name and address of the recipient.

(k) **[Effective January 1, 2022.]** A winery direct shipper licensee shall submit the records maintained pursuant to subsection (j) as a report to the commission on a quarterly basis in the manner, form, and format prescribed by the commission.

*(l)* **[Effective January 1, 2022.]** A winery direct shipper may only ship, or have shipped, wine from either their licensed winery direct shipper location or a licensed fulfillment house location.

(m) **[Effective January 1, 2022.]** Two (2) or more licensed winery direct shippers may make sales and shipments of wine pursuant to this section in conjunction and coordination with each other; provided, that if the wine products of more than one (1) licensed winery direct shipper are included in the same shipment, then such products may only be shipped to a resident of this state from a fulfillment house licensed pursuant to Section 4. Each winery participating in a sale made pursuant to this subsection (m) must have a winery direct shipper license.

(n) **[Effective January 1, 2022.]** The requirements of this section, including subsections (d) and (e), apply to winery direct shippers whether the wine is shipped from the winery direct shipper or a licensed fulfillment house.

**History.**

Acts 2009, ch. 348, § 1; 2011, ch. 213, § 1; 2017, ch. 486, § 1; 2018, ch. 765, § 7; 2018, ch. 933, § 3; 2019, ch. 263, § 1; 2021, ch. 331, §§ 1-3; 2021, ch. 425, § 1.

**Amendments.**

The 2019 amendment substituted "winery direct shipper" for "direct shipper" and "winery direct shipper's" for "direct shipper's" throughout the section.

The 2021 amendment by ch. 331, in (b), substituted "may make" for "shall be authorized to make" and added "; provided, that a winery direct shipper may only ship wine sold under a brand name owned by or licensed to the winery or farm winery, which is either: (1) Produced by the winery or farm winery, including manufactured in a manner authorized pursuant to § 57-3-207; (2) Produced exclusively for the winery or farm winery under an existing written contract with the winery or farm winery; or (3) Produced and bottled exclusively for the winery or farm winery" at the end; in (c), substituted "issuance or renewal of a winery direct shipper's license" for "issuance of a winery direct shipper's license"; and, effective January 1, 2022, added (i) – (n).

The 2021 amendment by ch. 425 added present (d)(2); and redesignated former (d)(2) as (d)(3).

**Effective Dates.**

Acts 2019, ch. 263, § 2. April 30, 2019.

Acts 2021, ch. 331, § 5. May 4, 2021; January 1, 2022.

Acts 2021, ch. 425, § 2. May 12, 2021.

**Attorney General Opinions.**

A foreign corporation or limited liability company licensed as a nonresident seller or direct shipper must obtain a certificate of authority from the Tennessee secretary of state only if the corporation or company transacts business in the state within the meaning of the relevant statutes, which depends on the character and extent of the corporation's or the company's transactions and business in the state. OAG 18-28, 2018 Tenn. AG LEXIS 27 (7/6/2018).

**57-3-224. Delivery service license.**

(a)(1) There is created a delivery service license to be issued by the commission to any delivery service that delivers or facilitates delivery of prepared food from restaurants or items from a retail store to customers as part of the delivery service's business and seeks to deliver sealed packages of alcoholic beverages or beer or both sold by any retailer licensed under this chapter, or an off-premises retail permittee licensed under § 57-5-103 as part of such delivery service. If a delivery service licensed under this section is delivering alcoholic beverages or beer purchased from a retailer in accordance with this subsection (a), the delivery service shall not deliver the alcoholic beverages or beer to a customer who resides or is located at the time of the delivery:

(A) More than fifty (50) miles from the licensed premises of the retailer at which the alcoholic beverages or beer were purchased; or

(B) In any county other than the county in which such retailer is located or a county contiguous to such county.

(2) A delivery service includes, for purposes of this title, a technology services company that provides software or an application for connecting customers, retailers, or restaurants to a delivery driver. A delivery service does not include, and no license is required under this title to operate, a technology services company that does not employ or contract with delivery drivers but rather provides software or an application that connects retail licensees with consumers for the delivery of alcoholic beverages or beer from the retailer pursuant to § 57-3-406(j) or a company that ships wine pursuant to § 57-3-217. This section does not apply to a "motor carrier" or "freight forwarder" as those terms are defined in 49 U.S.C. § 13102, or to an "air carrier" as that term is defined in 49 U.S.C. § 40102.

(3) A delivery service licensee may charge a fee based on a percentage of the sales of the alcoholic beverages or beer being delivered. The delivery service licensee shall not charge a fee that exceeds ten percent (10%) of the price of each alcoholic beverage or beer sold. The delivery service licensee is not responsible for remitting applicable taxes on alcoholic beverages or beer delivered by the licensee. The charging of such a fee must not be construed as the delivery service reselling alcoholic beverages or having a direct or indirect interest in a retailer.

(b)(1) Any person, partnership, limited liability company, or corporation desiring to deliver sealed packages of alcoholic beverages or beer sold by a retailer licensed under § 57-3-204 or an off-premise retail permittee licensed under § 57-5-103 as part of such delivery service shall make application to the commission for a delivery service license, which application shall be in writing and verified, on forms herein authorized to be prescribed and furnished; and the commission shall, subject to the restrictions of this section, issue such license.

(2)(A) Any person applying for a delivery service license shall be twenty-one (21) years of age or older and must not have been convicted of a felony as described in § 57-3-210(c).

(B) The commission may issue a delivery service license to any person, partnership, limited liability company, or corporation that is registered to

do business in this state regardless of the residence of the ownership of such entity.

(c) Each applicant for a delivery service license shall pay to the commission a one-time, nonrefundable fee in the amount of three hundred dollars ($300) when the application is submitted for review. A delivery service license shall not be issued by the commission until the applicant pays the annual license fee of one hundred fifty dollars ($150).

(d) Each delivery service licensee shall conduct, or have a third party conduct, a local and national criminal background check on any potential employee or independent contractor that seeks to be licensed pursuant to § 57-3-225. Such background check shall include a multistate criminal records locator or other similar commercial nationwide database with validation.

(e) It is the duty of each delivery service licensee to ensure that each employee or independent contractor, delivering alcoholic beverages or beer pursuant to § 57-3-406(k) for the licensee, is licensed pursuant to § 57-3-225.

(f) A delivery service may use either employees or independent contractors as part of such delivery service. Any person delivering products for a delivery service shall comply with the provisions contained in § 57-3-225 related to delivery drivers in order to deliver alcoholic beverages or beer or both as provided in this section.

**History.**
Acts 2015, ch. 285, § 2; 2016, ch. 1045, §§ 2, 3; 2016, ch. 1068, § 3; 2018, ch. 765, §§ 1-4; 2021, ch. 185, § 1.

**Amendments.**
The 2021 amendment added (a)(3).

**Effective Dates.**
Acts 2021, ch. 185, § 2. April 20, 2021.

## 57-3-226. Sale or transfer of alcoholic beverage inventory.

Notwithstanding § 57-3-204(c) or any other law to the contrary, a retailer licensed pursuant to § 57-3-204 that is selling the licensed establishment to a new licensee of the same license type or that is closing the licensed establishment may sell or transfer its alcoholic beverages to the purchasing entity or person or to another establishment of the same license type held by the closing licensee, if:

(1) The selling or closing licensee submits written notice to the commission and the department of revenue at least ten (10) days in advance of the sale or transfer to dispose of the licensee's remaining inventory. The commission shall determine the form of such notice and the method by which the notice must be provided. The notice must identify the licensee who is purchasing or receiving the inventory, the proposed date of the sale or transfer, and the quantity, types, and brands of alcoholic beverages to be sold or transferred;

(2) All invoices and debts related to alcoholic beverages being sold or transferred pursuant to this section are paid in full prior to the alcoholic beverages being sold or transferred; and

(3) The purchaser or transferee is licensed by the commission under § 57-3-204 prior to the sale or transfer being finalized.

**History.**
Acts 2021, ch. 76, § 1.

**Effective Dates.**
Acts 2021, ch. 76, § 4. March 29, 2021.

# PART 3

# TAXES

## 57-3-301. Brand name alcoholic beverages — Tax — Sale or importation — Contracts — Revocation of permits or licenses.

(a) As used in this section "brand" means:

(1) Each and every distilled spirits, wine product, beer with an alcoholic content of five percent (5%) by weight or greater high alcohol content beer product bearing a distinct brand name or trade name as defined or used by the United States department of the treasury, alcohol and tobacco tax and trade bureau, shall be considered a separate "brand" for purposes of this section;

(2) Within the group of wine or distilled spirits products bottled, manufactured, distilled, rectified, imported or marketed under a particular "brand name" or "trade name" as described in subdivision (a)(1), products which fall within separate classes or types as defined in the standards of identity for the several classes and types of wine and distilled spirits promulgated by the federal bureau of alcohol, tobacco and firearms shall be considered separate "brands" for purposes of this section; provided, that wine or distilled spirits products which differ only in the amount of alcohol or proof they contain shall not be considered separate brands for purposes of this section;

(3) The name, trademark, or trade name of the product, as indicated on the certificate of label approval as registered with the alcohol and tobacco tax and trade bureau of the United States department of the treasury, or, if no certificate of label approval is required, then the name, trademark, or trade name of the product.

(b)(1) There is imposed a tax of two hundred fifty dollars ($250) per annum upon each brand of distilled spirits sold in this state, for which actual wholesale sales during the twelve (12) months immediately preceding May 22, 1979, were fifty (50) cases or more.

(2) There is imposed a tax of one hundred dollars ($100) per annum upon each brand of distilled spirits sold in this state for which actual wholesale sales during the twelve (12) months immediately preceding May 22, 1979, were less than fifty (50) cases.

(3) There is imposed an annual tax upon each brand of wine sold in this state. The amount of this tax shall be based on the number of cases sold at wholesale in this state during the year immediately preceding any tax year as follows:

(A) Less than two hundred fifty (250) cases — No tax due; and

(B) Two hundred fifty (250) or more cases — Two hundred fifty dollars ($250).

(4) There is imposed a tax of one hundred dollars ($100) per annum upon each brand of beer with an alcoholic content greater than five percent (5%) by weight or each brand of high alcohol content beer sold in this state.

(c) No manufacturer, importer or representative shall introduce into this state any brand of alcoholic beverages until such tax has been paid to the department of revenue.

(d) No wholesaler shall give an order, receive, accept or offer for sale any brand of alcohol beverages until the annual tax has been paid to the department of revenue.

(e)(1) No brand may be introduced into the state except pursuant to written contract to sell such brand in this state between the manufacturer, brewer or importer of such brand and the Tennessee wholesaler who is to sell such brand in this state. Every contract shall contain the specified area in which such wholesaler will sell such brand and no more than one wholesaler may sell such brand in any specified area.

(2) If any party to a contract described in subdivision (e)(1) fails to comply with any provision of the contract, an aggrieved party may bring an action in the circuit or chancery courts of this state.

(3) No contract shall include the entire state of Tennessee as the specified area in which such wholesaler will sell any brand.

(4) No manufacturer or importer nor any successor to a manufacturer or importer may terminate a contract prior to the expiration of its term except for good cause, asserted in good faith, as determined by the commissioner of revenue. No manufacturer or importer, nor any successor to a manufacturer or importer may seek to terminate a contract for good cause, unless such manufacturer or importer has afforded the affected wholesaler with whom it has contracted a reasonable opportunity to cure any deficiency which in no event shall be less than thirty (30) days. No successor to a manufacturer or importer may register a contract to distribute a brand in this state with the department of revenue which differs from the contract previously filed for the distribution of such brand except for good cause, asserted in good faith, as determined by the commissioner of revenue.

(5) No manufacturer or importer nor any successor to a manufacturer or importer may fail to renew a contract with a wholesaler except for good cause, asserted in good faith, as determined by the commissioner of revenue. No manufacturer or importer, nor any successor to a manufacturer or importer may fail to renew a contract for good cause, unless such manufacturer or importer has afforded the affected wholesaler a reasonable opportunity to cure any deficiency which in no event shall be less than thirty (30) days.

(6) For purposes of this section, any modification of the designated area serviced by a wholesaler shall constitute a termination of its contract.

(f) If the commissioner of revenue, after a hearing, determines the manufacturer or importer has failed to establish good cause asserted in good faith as required herein, the provisions of the contract between such manufacturer or importer and the designated Tennessee wholesaler are still in force and a failure by such manufacturer or importer or its successor to ship to such a wholesaler a reasonable amount of the brand shall be grounds for a revocation of that manufacturer's or importer's nonresident seller's permit or winery license.

(g) The department of revenue is authorized to accept the brand registrations required under this section and the contracts described in subdivision

(e)(1) by electronic means. The department of revenue is authorized to approve one (1) or more third parties to facilitate electronic submissions on behalf of importers, manufacturers, suppliers, or wholesalers; provided, that such third parties shall:

(1) Be permitted to assess a reasonable cost against the importer, supplier, manufacturer, or wholesaler that elects to use the electronic service;

(2) Not assess any fees or costs against the state for providing such service;

(3) Adhere to the records requirements, privacy requirements, and technical requirements imposed by the department of revenue;

(4) Agree to provide documentation and support for all brand registrations and contract registrations as required by the department of revenue as part of the electronic process; and

(5) Agree to facilitate communication between the department of revenue and the affected importers, manufacturers, suppliers, and wholesalers to relate the status of any filing, transfer, or tax liability.

(h) The department of revenue is authorized to promulgate rules and regulations relative to the brand registration provisions of this section.

(i)(1) The department of revenue shall make available to the public the identity of the wholesalers and suppliers operating in this state, including their addresses, brands, and designated territories for which a contract has been registered with the department. Such information may be made available electronically.

(2) If a manufacturer, supplier, importer, nonresident seller, or nonmanufacturer nonresident seller registers a contract with a wholesaler for a brand, the department of revenue shall provide notice by electronic means of such registration to the manufacturer, supplier, importer, nonresident seller, or nonmanufacturer nonresident seller, as applicable, and the contracted wholesaler.

**History.**

Acts 1979, ch. 341, § 1; T.C.A., § 57-130; Acts 1980, ch. 782, § 1; 1984, ch. 684, §§ 1, 2; 1985, ch. 125, § 1; 1996, ch. 706, §§ 1, 2; 2013, ch. 171, §§ 1, 2; 2014, ch. 861, §§ 20-22; 2021, ch. 324, § 1.

**Amendments.**

The 2021 amendment added (i).

**Effective Dates.**

Acts 2021, ch. 324, § 2. May 4, 2021.

# PART 4

# PROHIBITED ACTS — ENFORCEMENT

## 57-3-404. Regulations for purchase and sale of intoxicating liquors — Wholesalers — Check cashing — Ground floor location — Credit sales.

(a) It is unlawful for any person in this state to buy any alcoholic beverages herein defined from any person, who, to the knowledge of the buyer, does not hold the appropriate license under the laws of this state authorizing the sale of such beverages to the buyer.

(b) No retailer shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell any alcoholic

beverages to anyone other than a licensed retailer or retail food store licensed to sell wine pursuant to part 8 of this chapter or a licensed wholesaler; provided, that such alcoholic beverages sold by one (1) wholesaler to another wholesaler shall be transported by common carrier or by vehicle owned or leased and operated by either the consignor wholesaler or the consignee wholesaler.

(c) No manufacturer or distiller shall sell any alcoholic beverages to any person in this state except a licensed wholesaler and to another manufacturer or distiller, and no manufacturer shall hold a wholesaler's license.

(d)(1) No alcoholic beverage for sale to the retailer, or the retailer's representative, shall be sold except by a licensed wholesaler, who sells for resale on the wholesaler's premises and who carries on no other business, directly or indirectly, and whose wholesale business in alcoholic beverages is not operated as an adjunct to, or supplementary to, the business of any other person, either by way of lease of the wholesale premises or otherwise, for any business other than that permitted by the terms of such wholesaler's wholesale license.

(2) Notwithstanding the limitations and restrictions imposed by this section, a wholesaler may invest its business assets in other businesses, and may engage in the sale and distribution of products other than alcoholic beverages; provided, that gross revenues from such other businesses and from the sale of products other than alcoholic beverages may not exceed fifty percent (50%) of a wholesaler's total gross revenues.

(3) A licensed alcoholic beverages wholesaler may lawfully engage in activities covered by chapter 5 of this title, as provided by § 57-3-203(b)(2), without regard to the amount of gross revenues produced by such operation. Such wholesaler may, at the wholesaler's discretion, use the same warehouse and other facilities, vehicles and employees in both operations; provided, that all legal requirements applicable to such operations are satisfied with respect to each operation.

(e)(1) No retail licensee shall operate its business involving the sale of wine, beer or other alcoholic beverages in connection with the wholesale distribution of wine, beer or other alcoholic beverage nor shall such licensee sell its wine, beer or other alcoholic beverage for purposes of resale.

(2) Notwithstanding subsection (a), beginning July 1, 2014, a retail licensee holding a license issued under § 57-3-204 shall be permitted to sell at retail beer and other malt beverages, subject to the restriction in [former] § 57-3-806(e). No permit or license other than the license issued pursuant to § 57-3-204 shall be required for the licensed retailer to engage in such sales of beer and other malt beverages and the issuer of that license has the authority to enforce any laws related to such sales.

(3) A retail licensee shall be permitted to cash a check or other negotiable instrument for a fee when such service is made available to a person over twenty-one (21) years of age. No postdated check shall be cashed by a licensee under this section.

(4) Beginning July 1, 2014, a retail licensee shall also be permitted to sell at retail items related to or incidental to the use, consumption, dispensing or storage of alcoholic beverages, together with merchandise and supplies related to special events or parties, subject to the restriction in [former]

§ 57-3-806(e). Such items may include, but are not limited to:

(A) Newspapers, magazines, publications, videos and other media related to alcoholic beverages or food;

(B) Utensils and supplies related or incidental to the use, consumption, dispensing or storage of alcoholic beverages, including, without limitation, corkscrews, beverage strainers, pourers, flasks, jiggers, stirrers, wine racks, wine refrigerators, wine cellars, decanters, carafes, glassware, ice crushers, bottle openers, can openers, and devices to maximize oxidation in uncorked wine bottles and other items used in connection with the consumption, storage or dispensing of alcoholic beverages;

(C) Gift cards, packages and baskets that include alcoholic beverages and nonalcoholic items;

(D) Nonalcoholic beverages;

(E) Kegs and growlers, whether empty or filled with beer, wine or alcoholic beverages, on the licensed premises;

(F) Concentrates and ingredients used in the preparation of mixed alcoholic beverages;

(G) Beer and wine-making kits;

(H) Products and supplies related to beer and wine-making;

(I) Lemons, limes, cherries, olives and other food items used in the preparation or garnishment of alcoholic beverages or mixed alcoholic beverages;

(J) Peanuts, pretzels, chips, cheese, crackers, appetizers and other snack foods;

(K) Beverage coolers, ice chests and ice in any form;

(L) Party supplies, party decorations, gift bags, greeting cards and other items for parties and special events;

(M) Articles of clothing and accessories imprinted with advertising, logos, slogans, trademarks or messages related to alcoholic beverages;

(N) Combined packages containing multiple alcoholic beverages;

(O) Cigarettes, cigars and lighters and other smoking or tobacco related products; and

(P) Lottery tickets if the retailer's application is approved by the Tennessee education lottery corporation as provided in § 4-51-115(e).

(5) A retail licensee may sell nonalcoholic products to persons under twenty-one (21) years of age including gift cards.

(f) No wholesale or retail store shall be located except on the ground floor, and it may have two (2) main entrances opening on a public street, and such place of business shall have no other entrance for use by the public except as hereafter provided. When a wholesale or retail store is located on the corner of two (2) public streets, such wholesale or retail store may maintain a door opening on each of the public streets. Any sales room adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby so long as same shall be open to the public. Every wholesale and retail store shall be provided with whatever entrances and exits may be required by existing or future municipal ordinances. When the location of a wholesale or retail liquor store is authorized to be located or operated within an established shopping center or shopping mall, and such liquor store cannot and does not

have a main entrance or door opening onto a public street, but the main entrance or door would open or front on a shopping center parking area, the commission in its discretion may approve the issuance of a liquor license to cover such location within the shopping center or shopping mall, irrespective of the fact that the main entrance or door does not or would not open onto a public street.

(g)(1) No holder of a license for the sale of alcoholic beverages for wholesale or retail shall sell, deliver, or cause, permit or procure to be sold or delivered, any alcoholic beverages on credit, except that holders of wholesale licenses may sell on not more than ten (10) days' credit.

(2) The ten-day period begins from delivery and receipt by the retail licensee. The ten-day period cannot include any day that the wholesaler is not open to make deliveries, receive payment or receive mail.

(3) Any suspension of deliveries is a credit decision to be made by a wholesaler and a retail licensee.

(4) A wholesaler shall be permitted to communicate with another wholesaler about the account status of any retail licensee.

(5) Wholesalers shall advise the commission of any failure of a retailer to comply with this subsection (g).

(6) The commission shall be permitted to post the account status of a retail licensee with any wholesaler on its website.

(7) This subsection (g) shall not apply to nonalcoholic products.

(h)(1) No alcoholic beverages shall be sold for consumption on the premises of the seller except as provided in §§ 57-4-101 — 57-4-203, and except as may be permitted by the regulations of the commission for the purpose of conducting consumer educational seminars by a licensee under § 57-3-204, conducted on the premises of a business licensed pursuant to §§ 57-4-101 — 57-4-203. A wholesaler licensed pursuant to § 57-3-203 or a person holding a permit as a representative or sales person pursuant to § 57-3-203(d) may conduct a sales demonstration on the premises of a licensed retailer and, for such limited purpose, may provide free samples to the employees of a licensed retailer for consumption on such premises. A retail licensee may conduct such a sales demonstration for the persons employed by such licensee holding permits issued pursuant to [former] § 57-3-204(c) using products and samples provided by a wholesaler or wholesaler sales representative notwithstanding the absence of the wholesaler or wholesaler sales representative. All such sales demonstrations permitted consumption shall be permitted only for sales, education, and promotional purposes and no one other than a retail licensee, a person holding a permit issued pursuant to [former]§ 57-3-204(c), a wholesaler or a wholesaler sales representative, or a person holding a permit issued pursuant to § 57-3-202(d) may be present in the room where such demonstration is conducted or may receive a sample for consumption.

(2)(A) A retail licensee may offer complimentary samples of the products it sells for tastings to be held on the premises of the retail licensee. Such tastings shall be for sales, education and promotional purposes. No person holding a license under § 57-3-203 shall, directly or indirectly, provide any products, funding, labor, support or reimbursement to a retailer for the consumer tastings authorized by this subdivision (h)(2).

(B)(i) The tastings may be held at the option of the retail licensee during the hours the retail licensee is open for business, without filing any notice other than as provided in subdivision (h)(2)(B)(ii) with the commission, and no charge or fee may be assessed by the commission for a retail licensee to offer such complimentary samples.

(ii) With its annual renewal, the retail licensee shall notify the commission of its intention to conduct tastings during the year on the premises of the retail licensee. If following the date the license is renewed, the retail licensee makes a determination to offer tastings, the licensee shall notify the commission of its intention to conduct tastings for the remainder of the year.

(C) The size of each sample shall be no greater than approximately two ounces (2 oz.) for each wine or high alcohol content beer sample and no greater than approximately one-half ounce (½ oz.) for each liquor sample. It is the responsibility of the retail licensee to limit the number of tastings per customer and the number of products available for tasting.

(D) Notwithstanding any law or rule to the contrary, a retail licensee or employee of the licensee may participate in tastings.

(E) A server permit is not required for employees conducting tastings if the employee has a permit pursuant to § 57-3-703; provided, that every retail licensee which offers tastings is encouraged to ensure that any employee who is involved with the tastings understands that a violation of § 57-3-406(c) and (d) and § 57-3-412 related to retail sales apply equally to those customers who participate in the tastings.

(F) A supplier may provide, through licensed wholesalers, products for tasting purposes by a retail licensee.

(G)(i) Notwithstanding subdivisions (h)(2)(A)-(F), a manufacturer conducting a consumer tasting at a retail licensee's premises may, in the manufacturer's discretion:

*(a)* Have a licensed wholesaler deliver the product to be tasted directly to the retailer using a zero dollar ($0.00) invoice; or

*(b)* Obtain the product to be tasted from a wholesaler in advance of the tasting and bring the product to the retail licensee's premises to be used exclusively for consumer tastings.

(ii) If a manufacturer chooses the option in subdivision (h)(2)(G)(i)(*b*), then the applicable wholesaler shall provide a zero dollar ($0.00) invoice for the product requested by the manufacturer. In addition, the manufacturer must notify the wholesaler in writing at least five (5) business days prior to pick up by the manufacturer of any scheduled consumer tasting that includes the date and location of the consumer tastings. If additional tastings occur, each manufacturer shall notify in writing their wholesalers of the date and location of the consumer tasting at least five (5) business days after such tastings.

(iii) A manufacturer may acquire a reasonable amount of product for consumer tastings that will occur in the next thirty (30) days. If a manufacturer has leftover product after this thirty-day period, then the manufacturer may email the applicable wholesalers the approximate

amount of leftover product, and the manufacturer may possess this overage for another thirty (30) days. This process may continue indefinitely until the extra product is used up or poured out by the manufacturer.

(iv) A manufacturer shall not leave excess or leftover product, either sealed or unsealed, with a retail licensee. All product must be taken by the manufacturer to be used by them for future consumer tastings.

(i) No wholesaler may provide a discount or other reduction in price to a retailer or retail food store wine licensee by virtue of the sales made to any other licensee. Any discount or pricing made available to a retailer or retail food store wine licensee shall be made available on the same terms and conditions to other retailers and food store wine licensees within the same jurisdiction. Any quantity discounts provided by wholesalers to any retailer licensed under this chapter or any licensee licensed under chapter 4 of this title cannot be cumulative in nature, but can be based only upon products delivered contemporaneously. No retail food store wine licensee may receive any remuneration, by whatever name, at a corporate office located inside or outside this state that affects the profitability of wine or beer sales in this state, that is not made available to all retail licensees or other retail food stores licensed to sell wine or beer in this state.

**History.**

Acts 1939, ch. 49, §§ 5, 11, 14; 1945, ch. 48, § 1; 1945, ch. 167, § 6; C. Supp. 1950, §§ 6648.15-6648.17 (Williams, §§ 6648.8, 6648.14, 6648.17); Acts 1955, ch. 347, § 1A; 1967, ch. 211, § 2; 1970, ch. 469, § 2; 1971, ch. 72, § 1; modified; T.C.A. (orig. ed.), § 57-140; Acts 1983, ch. 454, § 1; 1993, ch. 157, § 1; 1997, ch. 35, § 1; 1998, ch. 765, § 3; 2002, ch. 672, § 2; 2011, ch. 448, § 19; 2012, ch. 947, § 2; 2014, ch. 554, §§ 2, 10, 14, 17, 19, 26, 29; 2017, ch. 443, § 6; 2021, ch. 437, § 1.

**Amendments.**

The 2021 amendment added (h)(2)(G).

**Effective Dates.**

Acts 2021, ch. 437, § 2. May 13, 2021.

## 57-3-415. Fulfillment house license. [Effective on January 1, 2022.]

*(a)(1) As used in this section, "fulfillment house" means an in- or out-of-state entity, other than a winery, or farm winery, wholesaler, non-resident seller, or common carrier, that takes physical possession of a winery direct shipper's wine and handles logistics, including warehousing, packaging, order fulfillment, or shipping services on behalf of a winery direct shipper licensee for products that the winery direct shipper is eligible to ship to residents in this state.*

*(2) The winery direct shipper and the fulfillment house may transport the wine to the fulfillment house. It is lawful for a common carrier to transport the wine to a fulfillment house. Section 57-3-207(i) is not applicable to wine transported to a fulfillment house.*

*(b) A person, firm, limited liability company, or corporation may apply to the commission to obtain a fulfillment house license where the fulfillment house is involved in the shipping of wine to residents of this state and pay an application fee of three hundred dollars ($300) and an annual license fee of three hundred dollars ($300) and an additional fifty dollars ($50.00) for each separate location where it takes physical possession of wine before making or causing a shipment into, within, or outside of this state. A fulfillment house license must be renewed*

*annually. A fulfillment house licensee may only provide services related to shipment of wine produced by and belonging to a winery direct shipper licensee into or within this state according to the requirements of this section. A fulfillment house licensee shall not provide services related to shipment of wine into or within this state to a retailer licensed under this title, an entity licensed as an out-of-state retailer, or a person or entity that is not a winery direct shipper licensed pursuant to § 57-3-217. A fulfillment house license granted pursuant to this section authorizes the licensee to only ship wine into or within this state for winery direct shippers licensed pursuant to § 57-3-217. Any other activity into or within this state is unlawful.*

*(c) A fulfillment house license applicant shall provide the following information as part of its application:*

*(1) All locations where it takes physical possession of wine for shipment into or within this state;*

*(2) An executed consent to jurisdiction and venue of all actions brought before the commission, a state agency, or the courts of this state, such that all hearings, appeals, and other matters relating to the license of the fulfillment house must be held in this state;*

*(3) A written acknowledgement that it will contract only with common carriers that agree that the delivery of wine in this state will be by face-to-face delivery, that deliveries will only be made to individuals who are at least twenty-one (21) years of age, and that the recipient must sign upon receipt of the wine; and*

*(4) Any other provisions as required by the commission.*

*(d) A fulfillment house licensee shall ensure that all containers of wine shipped directly to an individual in this state are labeled with the conspicuous words "SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY", and the name, address, and license number of the fulfillment house licensee.*

*(e) All containers of wine shipped directly to a resident of this state must be shipped using a common carrier. A fulfillment house licensee shall not ship wine into or within this state from, or on behalf of:*

*(1) Unlicensed direct shippers, either in-state or out-of-state;*

*(2) A retailer licensed under this title;*

*(3) An out-of-state retailer; or*

*(4) A person or entity that is not a winery direct shipper licensed pursuant to § 57-3-217.*

*(f) A fulfillment house licensee shall verify that each winery direct shipper is licensed to ship to consumers in this state before making a shipment, and failure to verify proper licensure subjects a fulfillment house licensee to a fine, suspension, or revocation in accordance with subsection (h).*

*(g) A fulfillment house licensee shall maintain records for a minimum of three (3) years from the shipment date, which must include:*

*(1) The name, address, and license number of the licensed winery direct shipper;*

*(2) The name of the common carrier;*

*(3) The date of each shipment;*

*(4) The carrier tracking number;*

*(5) The quantity, by weight or other means, and product type of wine shipped; and*

*(6) The name and address of the recipient.*

*(h) A fulfillment house licensee shall submit these records as a report to the commission quarterly in the manner, form, and format prescribed by the commission. Any fulfillment house licensee found in violation of this section is subject to fines, suspension, or revocation of its license in accordance with this title and shall reimburse the commission for all costs incurred in connection with the investigation and administrative action, including the out-of-pocket costs and reasonable personnel costs. The commission is empowered to make such regulations, investigations, and audits as it may deem necessary for enforcing and preventing violations of this section.*

*(i) The requirements for a common carrier under § 57-3-217 equally apply to wine obtained from a fulfillment house licensee on behalf of a winery direct shipper to the same extent as if the common carrier obtained the wine from the winery direct shipper licensee.*

**History.**
Acts 2021, ch. 331, § 4.

**Effective Dates.**
Acts 2021, ch. 331, § 5. January 1, 2022.

# PART 6

# NONRESIDENT SELLER'S PERMITS

## 57-3-602. When permit required — Exceptions.

**Attorney General Opinions.**

A foreign corporation or limited liability company licensed as a nonresident seller or direct shipper must obtain a certificate of authority from the Tennessee secretary of state only if the corporation or company transacts business in the state within the meaning of the relevant statutes, which depends on the character and extent of the corporation's or the company's transactions and business in the state. OAG 18-28, 2018 Tenn. AG LEXIS 27 (7/6/2018).

# PART 7

# EMPLOYEE AND SERVER PERMITS

## 57-3-704. Application requirements for server permits.

(a) Any individual may be eligible for a server permit by completing an application for such a permit on the forms provided by the commission. An applicant for a server permit must demonstrate to the commission that the applicant meets the following requirements:

(1) Within one (1) year prior to the submission of the application the applicant has successfully completed a program of alcohol awareness training for persons involved in the direct service of alcohol, wine or beer by an entity certified by the commission to have an adequate training curriculum for alcohol awareness. The training program must consist of not less than three and one-half (3½) hours of alcohol awareness training. If, in the determination of the commission, a state other than Tennessee is deemed to have an adequate program of alcohol awareness training, then the success-

ful completion of such training in that state within one (1) year prior to the submission of an application to the commission for a server permit shall satisfy the requirement of alcohol awareness training;

(2) The applicant is at least eighteen (18) years of age; and

(3) The applicant:

(A) Has not been convicted of a felony offense involving theft, dishonesty, deceit, or intoxication within the previous eight (8) years;

(B) Has not been convicted of any crime relating to the sale or dispensing of alcoholic beverages or beer, Schedules I and II controlled substances, or controlled substance analogues or any sex-related crime or embezzlement within the previous eight (8) years;

(C) Has not had a server permit or any similar permit issued by the state, any local jurisdiction, or any foreign jurisdiction revoked by any issuing authority within the previous five (5) years; and

(D) Has not had an ownership interest in any licensee or permittee, licensed or permitted pursuant to § 57-3-203, § 57-3-204, § 57-3-207, § 57-4-101 or § 57-5-103 which has had its license or permit revoked by the issuing authority within the previous eight (8) years.

(b) If an applicant does not meet the requirements of subdivision (a)(3), but is otherwise eligible for a server permit, then the applicant's application shall be initially denied pursuant to this subsection (b). Within thirty (30) days of such initial denial, the applicant may request a hearing to be held pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. At such hearing, the administrative law judge or hearing officer may consider any evidence the administrative law judge or hearing officer deems relevant to the matter and may, if in the administrative law judge's or hearing officer's judgment the principles of equity require, approve the application and grant the employee permit, notwithstanding the requirements of subdivision (a)(3).

(c)(1) If an applicant does not request a hearing pursuant to subsection (b) within the required period, then the application's denial will be final and the applicant may not reapply for a server permit until the relevant time period described in subdivision (a)(3) has expired. If a person applies for a server permit in violation of this subdivision (c)(1), then such application shall be denied and subsection (b) shall not apply.

(2) If the administrative law judge, hearing officer, or commission denies an application pursuant to subsection (b), then the application's denial will be final and the applicant may not reapply for a server permit or apply for an employee permit pursuant to § 57-3-703 until the relevant time period described in subdivision (a)(3) has expired. If a person applies for an employee or server permit in violation of this subdivision (c)(2), then such application shall be denied and subsection (b) or § 57-3-703(b) shall not apply.

(d) If a person is convicted of an offense described in subdivision (a)(3)(A) or (a)(3)(B) after being issued a server permit pursuant to this section, the commission may institute proceedings to revoke the person's server permit pursuant to § 57-3-214; provided, that the administrative law judge or hearing officer may, if in the administrative law judge's or hearing officer's judgment the principles of equity require, refuse to revoke the person's server permit,

notwithstanding a finding that the person has been convicted of an offense described in subdivision (a)(3)(A) or (a)(3)(B). If the administrative law judge, hearing officer, or commission revokes a server permit pursuant to this subsection (d), then the applicant may not reapply for a server permit or apply for an employee permit pursuant to § 57-3-703 until the relevant time period described in subdivision (a)(3)(A) or (a)(3)(B) has expired. If a person applies for an employee or server permit in violation of this subsection (d), then such application shall be denied and subsection (b) or § 57-3-703(b) shall not apply.

(e) The commission may promulgate rules and regulations to enforce and administer this section pursuant to the Uniform Administrative Procedures Act.

(f) The commission may suspend or revoke a server permit for any violation of this title or any rule or regulation promulgated by the commission committed by the permit holder. The commission may, in lieu of suspending or revoking a server permit under this subsection (f), require the server to retake and successfully complete a program of alcohol awareness training conducted by an entity certified by the commission.

(g)(1) Any employee, representative, or agent of a permittee whose duties include verifying that a person is twenty-one (21) years of age or older for the purpose of authorizing the person access to the premises of the permittee shall, during any period in which the employee, representative, or agent is required to verify that a person is twenty-one (21) years of age or older, require each person seeking access to the premises whose physical appearance does not reasonably demonstrate an age of fifty (50) years or older to present a valid, government-issued document or other acceptable form of identification that includes the photograph and birth date of the person.

(2) The commission may impose a fine of five hundred dollars ($500) against any employee, representative, or agent of a permittee who violates subdivision (g)(1).

(3) As used in this subsection (g):

(A) "Employee, representative, or agent" does not include a server permitted under § 57-4-203(h) and this part; and

(B) "Permittee" means any person, business, or other entity issued a permit under chapter 4 of this title for the purpose of authorizing the sale and consumption of alcoholic beverages on the premises of the permittee.

**History.**

Acts 1995, ch. 396, § 1; 2001, ch. 279, § 2; 2012, ch. 848, § 60; 2012, ch. 1063, § 2; 2014, ch. 973, § 2; 2016, ch. 719, § 2; 2016, ch. 908, § 2; 2017, ch. 147, § 13; 2019, ch. 435, § 1.

**Amendments.**

The 2019 amendment added the second sentence in (a)(1).

**Effective Dates.**

Acts 2019, ch. 435, § 6. May 22, 2019.

# PART 8

# SALE OF WINE IN RETAIL FOOD STORES

**57-3-806. Certificate to accompany application for license — Contents — Requirements for renewal of license — Limitation on location of licensed premises — Review of denial of certificate.**

(a) As a condition precedent to the issuance of a license under § 57-3-803, every applicant for a license under that section shall submit with the application to the commission a certificate signed by the county mayor or chair of the county commission in which the licensed premises are to be located if outside the corporate limits of a municipality or, if within a municipality, from the mayor or a majority of the commission, city council, or legislative body of the municipality, by whatsoever name designated, or if the municipality has no mayor, from the highest executive of the municipality. The issuance of a certificate must not be conditioned on the residency of the applicant, including, but not limited to, requiring the applicant to live within the county or municipality, or additional conditions not required by this section. The certificate remains valid unless there is a change of ownership or location. If either of these events occurs, a new certificate must be obtained prior to renewal.

(b)(1) The certificate must state:

(A) That the applicant or applicants who are to be in actual charge of the business have not been convicted of a felony within a ten-year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten-year period immediately preceding the date of the application; and

(B) That the applicant or applicants have secured a location for the business which complies with all zoning laws adopted by the local jurisdiction, as to the location of the business.

(2) Each applicant or officer identified in subdivision (b)(1)(A) must obtain and submit with the certificate a local and national criminal history record obtained from a third party using a multistate criminal records locator or other similar commercial nationwide database with validation. A criminal history record that indicates that the applicant or officer has not been convicted of a felony within the immediately preceding ten-year period serves as proof satisfactory that the applicant or officer has complied with subdivision (b)(1)(A).

(c) Municipalities and counties are not authorized to limit the number of retail food store wine licenses issued within their jurisdictions.

(d)(1) In order to renew a retail food store wine license, the licensee must maintain a minimum of twenty percent (20%) of the licensee's sales taxable sales from the retail sale of food and food ingredients for human consumption taxed at the rate provided in § 67-6-228(a), such percentage to be calculated on an annual basis. The licensee shall keep sales and purchase records through accounting methods that are customary or reasonable in the retail food store business.

(2) A retail food store wine licensee who fails to comply with subdivision (d)(1) in achieving the minimum required sales or in failing to keep adequate records shall have one (1) year to come into compliance. During this one-year period, the licensee shall work with the commission in creating a plan that

would bring the licensee into compliance with this subsection (d).

(3) Failure to comply after the one-year period shall result in the retail food store wine license being suspended or revoked by the commission.

(4) In order to determine compliance with subdivision (d)(1), each retail licensee shall submit sales information to the commission in such form as the commission deems appropriate at the time the licensee applies for a license or upon renewal of such license. Each licensee shall provide the licensee's sales tax registration number to the commission. The commission is authorized to verify sales information if the commission deems it necessary with the department of revenue.

(e)(1) No retail food store wine license shall be issued to a retail food store located within a shopping center or other development unless documentation is provided to the commission that the retail food store has:

(A) Not prohibited or restricted, through its lease or other agreement with the owner of the shopping center or development, the sale of wine or other alcoholic products by others at the shopping center or development; or

(B) Waived any prohibition or restriction on the sale of wine or other alcoholic products, if such prohibition or restriction is in the lease.

(2) If an applicant for a retail food store wine license is the owner of the shopping center or development, the applicant shall waive any prohibition or restriction on the sale of wine or other alcoholic products on any other entity that is located within that shopping center or development owned by the applicant. Nothing in this subsection (e) shall prevent the nonapplicant owner of a shopping center from imposing restrictions on its tenants through its leases or agreements.

(f) An applicant may seek review of the denial of a certificate by instituting an action in the chancery court having jurisdiction over the municipality or county within sixty (60) days of the denial.

(g) A failure on the part of the issuing authority to grant or deny the certificate within sixty (60) days of the written application for such shall be deemed a granting of the certificate.

(h) The requirement imposed by this section to submit a certificate shall not be applicable to any applicant if:

(1) The authority of the county or municipality charged with the responsibility to issue the certificate required herein shall have failed to grant or deny the certificate within sixty (60) days after written application for such certificate is filed; or

(2) The applicant submits a final order of a court holding that the denial of the required certificate was unreasonable, as established by subsection (f).

**History.**

Acts 2014, ch. 554, § 1; 2016, ch. 697, § 1; 2016, ch. 1068, § 6; 2017, ch. 357, § 2; 2019, ch. 136, § 5.

**Amendments.**

The 2019 amendment, in (a), substituted "must not be conditioned" for "shall not be conditioned" in the second sentence, and added the last two sentences.

**Effective Dates.**

Acts 2019, ch. 136, § 6. August 1, 2019.

## 57-3-818. Responsible vendor training program — Report — Fees — Exceptions.

(a) The commission shall create a responsible vendor training program for retail food store wine licensees and retailers licensed pursuant to § 57-3-204 similar to the responsible vendor training program established in chapter 5, part 6 of this title.

(b) Except as provided in subsection (d), each retail food store wine licensee and retailer licensed in this state shall participate in the responsible vendor training program created under this section as a condition to having and maintaining such license.

(c) Each retail food store and retailer shall be required to annually file a report stating the number of certified clerks employed by the licensee in the twelve (12) months preceding the date of the report. The list shall include the first and last name of each clerk. The licensee shall maintain records for each clerk sufficient to verify that annual training has been completed. Training shall be a minimum of one (1) hour annually. Each retail food store and retailer shall pay a fee as follows:

(1) 0-15 certified clerks—$150;
(2) 16-30 certified clerks—$200;
(3) 31-45 certified clerks—$250;
(4) 46-60 certified clerks—$300;
(5) 61-100 certified clerks—$350;
(6) 101-150 certified clerks—$400;
(7) 151-200 certified clerks—$450; and
(8) $50.00 for each additional 50 certified clerks over 200.

(d) The commission shall not require any licensee to participate or pay fees for both the responsible vendor training program created in this section and the program established in chapter 5, part 6 of this title. Participation in either program shall be deemed sufficient compliance.

(e) This section shall not apply to employees of a retailer licensed under § 57-3-204 until July 1, 2016. Any employee of a retailer who has a valid permit under [former] § 57-3-204(c) on July 1, 2016, shall not be required to be certified pursuant to this section until that permit expires.

**History.**
Acts 2014, ch. 554, § 1; 2019, ch. 136, § 2.

**Amendments.**
The 2019 amendment rewrote (c) which read: "Each retail food store wine licensee and retailer shall pay an annual fee based on the number of certified clerks existing at the time the licensee applies to the commission for certification under the responsible vendor training program. The fee shall be as follows:".

**Effective Dates.**
Acts 2019, ch. 136, § 6. August 1, 2019.

## 57-3-820. Sale or transfer of alcoholic beverage inventory.

Notwithstanding any other law to the contrary, a retailer licensed pursuant to § 57-3-803 that is selling the licensed establishment to a new licensee of the same license type or that is closing the licensed establishment may sell or transfer its wine to the purchasing entity or person or to another establishment of the same license type held by the closing licensee, if:

(1) The selling or closing licensee submits written notice to the commission and the department of revenue at least ten (10) days in advance of the sale or transfer to dispose of the licensee's remaining inventory. The commission shall determine the form of such notice and the method by which the notice must be provided. The notice must identify the licensee who is purchasing or receiving the inventory, the proposed date of the sale or transfer, and the quantity, types, and brands of wine to be sold or transferred;

(2) All invoices and debts related to wine being sold pursuant to this section are paid in full prior to the wine being sold or transferred; and

(3) The purchaser or transferee is licensed by the commission under § 57-3-803 prior to the sale or transfer being finalized.

**History.**
Acts 2021, ch. 76, § 2.

**Effective Dates.**
Acts 2021, ch. 76, § 4. March 29, 2021.

# PART 11

# TENNESSEE WINE AND GRAPE BOARD

## 57-3-1101. Tennessee wine and grape board.

(a) The Tennessee wine and grape board is hereby created, referred to in this part as the "board", for the purpose of supporting the growth of the wine industry in this state.

(b) For administrative purposes only, the board is attached to the department of agriculture.

(c) The board is composed of seven (7) members, as follows:

(1) The commissioner of agriculture, or the commissioner's designee;

(2) The commissioner of tourism, or the commissioner's designee;

(3) A Tennessee wine producer, appointed by the governor;

(4) A Tennessee grape or fruit producer, appointed by the governor;

(5) A person in higher education with a background in fermentation or viticulture, appointed by the governor; and

(6) Two (2) members who are involved, with respect to the wine industry in this state, in production, marketing, sales, journalism, or education, appointed by the governor.

(d) Members appointed under subdivisions (c)(3)-(6) serve at the pleasure of the governor.

(e) The members of the board shall receive no compensation for their service on the board, nor are the members entitled to per diem or travel expenses for the purposes of carrying out their duties under this part.

(f) The commissioner of agriculture shall call the first meeting of the board. The board shall elect its chair and other officers at the first meeting of the board and annually thereafter.

(g) For the initial appointments of members under subdivisions (c)(3)-(6), the governor shall appoint two (2) members to four-year terms, two (2) members to three-year terms, and one (1) member to a two-year term.

(h) After the initial appointments, each appointed member shall serve a term of four (4) years. Vacancies on the board must be filled in the same manner as the initial appointment.

(i) For purposes of conducting official business of the board, a quorum consists of no less than four (4) members.

(j) The board shall issue an annual report on the wine industry and viticulture in this state and on current and future activities of the board, and shall submit the report to the governor, the commissioner of finance and administration, the chair of the agriculture and natural resources committee of the house of representatives, and the chair of the energy, agriculture and natural resources committee of the senate.

**History.**
Acts 2019, ch. 444, § 3.

**Compiler's Notes.**
The Tennessee wine and grape board, created by this section, terminates June 30, 2025. See §§ 4-29-112, 4-29-246.

**Effective Dates.**
Acts 2019, ch. 444, § 5. July 1, 2019.

**Cross References.** Reporting requirement satisfied by notice to general assembly members of publication of report, § 3-1-114.

## 57-3-1102. Use of appropriated money — Raising funds — Audit.

(a) Money appropriated for use by the board must be used to:

(1) Increase the number of wineries in this state;

(2) Improve the quality of wine produced by wineries in this state;

(3) Promote the wine industry and viticulture in this state; and

(4) Implement and maintain a wholesaler rebate program for Tennessee wineries.

(b) The board has the authority to receive gifts, donations, grants, and funds to promote its activities and support ongoing programs. Any funds raised by the board must be used in accordance with this part.

(c) Any funds received by the board shall be held by the department and accounted for separately for such use.

(d) The office of the comptroller of the treasury may audit the board as it deems necessary.

**History.**
Acts 2019, ch. 444, § 3.

**Effective Dates.**
Acts 2019, ch. 444, § 5. July 1, 2019.

## 57-3-1103. Promulgation of rules by board.

The board may promulgate rules for the purpose of carrying out this part.

**History.**
Acts 2019, ch. 444, § 3.

**Effective Dates.**
Acts 2019, ch. 444, § 5. July 1, 2019.

# CHAPTER 4

# CONSUMPTION OF ALCOHOLIC BEVERAGES ON PREMISES

Part 1. General Provisions

Section
57-4-101. Premises on which certain sales and consumption authorized.
57-4-102. Chapter definitions.
57-4-103. Applicability of chapter — Referendum — Form of question.
57-4-106. Authority to serve or sell high alcohol content beer if authorized to serve or sell wine.
57-4-110. Interest of licensed manufacturer in licensed establishment.
57-4-111. Sale or transfer of alcoholic beverage inventory.
57-4-112. Drive-through, pickup, and carryout orders of alcoholic beverages and beer. [Effective until July 1, 2023. See Compiler's Notes.]

Part 2. Administration, Enforcement, Prohibited Acts

57-4-201. Alcoholic beverage commission to administer law — Permits — Procedure — Rules and regulations.
57-4-202. Revocation or suspension of permits — Pilot project concerning local and municipal beer boards.
57-4-203. Prohibited practices — Hours of sale — Authority of commission — Penalties.

Part 3. Taxes and Fees

57-4-301. Privilege taxes — Tax on retail sales — Carrier license fees — Mixing bar tax.
57-4-306. Distribution of collections.

## PART 1

## GENERAL PROVISIONS

### 57-4-101. Premises on which certain sales and consumption authorized.

(a) It is lawful to sell wine and other alcoholic beverages as defined in § 57-4-102, and beer as defined in § 57-6-102, to be consumed on the premises of, or within the boundaries of, any:

(1) Hotel, commercial passenger boat company, paddlewheel steamboat company, restaurant, commercial airlines, or passenger trains meeting the requirements hereinafter set out, within the boundaries of the political subdivisions, wherein such is authorized under § 57-4-103;

(2) Premier type tourist resort or club as defined in § 57-4-102, to guests of such resort and to members and guests of such clubs, subject to the further provisions of this chapter other than § 57-4-103;

(3) Convention center as defined in § 57-4-102, to those in attendance at the convention center, subject to the further provisions of this chapter other than §§ 57-3-210(b)(1) and 57-4-103;

(4) Historic performing arts center as defined in 57-4-102, to those in attendance at the performing arts center, subject to the further provisions of this chapter other than § 57-4-103;

(5) Historic interpretive center as defined in § 57-4-102, to those in attendance at such interpretive center, subject to the further provisions of this chapter other than §§ 57-4-103 and 57-3-210(b)(1);

(6) Community theater as defined in § 57-4-102, to those in attendance at such community theater, subject to the further provisions of this chapter other than § 57-4-103;

(7) Historic mansion house site as defined in § 57-4-102, subject to the further provisions of this chapter other than § 57-4-103;

(8) Terminal building of a commercial air carrier airport as defined in § 57-4-102, subject both to the further provisions of this chapter other than § 57-4-103, and to the approval of a majority of the governing board of such commercial air carrier airport;

(9)(A) Zoological institution as defined in § 57-4-102, to those in attendance at the zoological institution, subject to the further provisions of this chapter other than § 57-4-103. No such wine, alcoholic beverages or beer shall be served during the regular operating hours where the institution is open to the general public unless a special event is scheduled for fund-raising purposes which is by invitation or for which an admission is charged for such event;

(B) Notwithstanding subdivision (a)(9)(A), zoological institution as defined in § 57-4-102(42)(A), (B), and (D), to those in attendance at the zoological institution, subject to the further provisions of this chapter other than § 57-4-103;

(10) Museum as defined in § 57-4-102, to those in attendance at the museum, subject to the further provisions of this chapter other than § 57-4-103. No alcoholic beverage or beer shall be served during the regular operating hours when the museum is open to the general public except at a restaurant located on the premises of such museum or at a special event scheduled for fund-raising purposes when such event is either by invitation or admission is charged;

(11) Commercial airline travel club as defined in § 57-4-102, located within a terminal building of a commercial air carrier airport as defined in § 57-4-102, subject both to the further provisions of this chapter, other than § 57-4-103, and to the approval of a majority of the governing board of such commercial air carrier airport;

(12) Public aquarium as defined in § 57-4-102, to those in attendance at the public aquarium subject to this chapter;

(13) Aquarium exhibition facility as defined in § 57-4-102, to those in attendance at such facility subject to the provisions of this chapter. Such alcoholic beverages, wine and beer shall only be sold on such premises at special functions, wherein attendance is limited to invited guests or groups, the function is not open to the general public, and the area in which the function is held is not open to the general public during such function;

(14) Caterer licensed under this chapter as well as at such other sites as the licensed caterer has given advanced notice to the commission. Such sites shall be considered to be within the licensed premises for the purposes of this chapter;

(15) Sports authority facility as defined in § 57-4-102, to those in attendance at such sports authority facility, subject to the further provisions of this chapter. A sports authority facility as defined in § 57-4-102(35)(A) constitutes an urban park center for the purposes of the taxes provided in

§ 57-4-301;

(16) Theater as defined in § 57-4-102, to those in attendance at such theater, subject to the further provisions of this chapter;

(17) Retirement center as defined in § 57-4-102;

(18) Tennessee River resort district as defined in § 57-4-102, subject to the further provisions of this chapter other than § 57-4-103;

(19) Civic arts center as defined in § 57-4-102, to those in attendance at the civic arts center, subject to the further provisions of this chapter other than § 57-4-103;

(20) Limited service restaurant as defined in § 57-4-102, wherein such is authorized under § 57-4-103;

(21) Festival operator as defined in § 57-4-102, to those in attendance at a festival, subject to the further provisions of this chapter, and except as otherwise provided in § 57-4-102; and

(22) Food hall, as defined in § 57-4-102, to those in attendance at the food hall, subject to the provisions of this chapter.

(b) It is lawful to sell wine and other alcoholic beverages as defined in § 57-4-102, to be consumed on the premises of any:

(1) Permanently constructed facility within an urban park center as defined in § 57-4-102, to those in attendance at the urban park center, subject to the further provisions of this chapter other than §§ 57-4-103 and 57-3-210(b)(1);

(2) Any motor speedway as defined in § 57-4-102, to the patrons and guests of such motor speedway, subject to the further provisions of this chapter other than § 57-4-103. The phrase "premises of any motor speedway" includes any permanent or temporary structure erected on the motor speedway site as defined in § 57-4-102(24)(A); and

(3) Country club located on an historic property, as defined in § 57-4-102, to the patrons and guests of such country club, subject to the further provisions of this chapter other than § 57-4-103.

(c) It is lawful to sell wine, as defined in § 57-4-102, to be consumed on the premises of any:

(1) Restaurant located within the boundaries of any political subdivision which has authorized the sale of alcoholic beverages for consumption on the premises as provided in § 57-4-103, subject to the further provisions of this chapter. Notwithstanding the minimum seating requirement for a restaurant in § 57-4-102, a restaurant operating under this subsection (c) shall have a seating capacity of at least forty (40) people at tables, except in central business improvement districts located in counties having a population of eight hundred thousand (800,000) or more, according to the 2000 federal census or any subsequent federal census where such restaurants shall have a seating capacity of at least twenty-four (24) people; and

(2) Bed and breakfast establishment as defined in § 57-4-102, to the guests of the bed and breakfast establishment, subject to the further provisions of this chapter other than § 57-4-103.

(d) It is lawful to serve wine and other alcoholic beverages as defined in § 57-3-101, and beer as defined in § 57-6-102, to be consumed on the premises of any club as defined in § 57-4-102(8)(G), to the guests of the club, subject to

the further provisions of this chapter other than § 57-4-103; provided, that such club is located in a county having a population of not less than one hundred three thousand one hundred (103,100) nor more than one hundred three thousand four hundred (103,400), according to the 1990 federal census or any subsequent federal census, and in a municipality which lies within two (2) contiguous counties.

(e) It is lawful to serve wine as defined in § 57-3-101, and beer as defined in § 57-6-102, to be consumed on the premises of any restaurant as defined in § 57-4-102(31)(F), located in the unincorporated areas of any county having a population of not less than thirty thousand two hundred (30,200) nor more than thirty thousand four hundred seventy-five (30,475), according to the 1990 federal census or any subsequent federal census, subject to the further provisions of this chapter other than § 57-4-103.

(f) It is lawful to serve wine as defined in § 57-3-101, to be consumed on the premises of any historic inn as defined in § 57-4-102, to the patrons and guests of the historic inn, subject to the further provisions of this chapter other than § 57-4-103.

(g) It is lawful for a charitable, nonprofit or political organization possessing a special occasion license pursuant to § 57-4-102 to serve or sell wine and other alcoholic beverages as defined in § 57-4-102, and beer as defined in § 57-6-102, to be consumed on the designated premises, or sold or donated in sealed containers for off-premises consumption within the boundaries of a political subdivision wherein the sale of alcoholic beverages at retail has been approved pursuant to § 57-3-106 or wherein the sale of alcoholic beverages for consumption has been approved pursuant to § 57-4-103. A special occasion license may also be issued for an event within the unincorporated portion of a county if at least one (1) municipality in such county has approved the sale of alcoholic beverages at retail pursuant to § 57-3-106 or the sale of alcoholic beverages for consumption pursuant to § 57-4-103.

(h) Any hotel or motel licensed under this chapter may dispense sealed alcoholic beverages and beer to adult guests through locked, in-room units. Distilled spirits so dispensed shall be in bottles not exceeding fifty milliliters (50 ml.). No person under the age of twenty-one (21) shall be issued or supplied with a key by any hotel or motel for such units. Such units may only be located in any such hotel or motel if the voters of such municipality have approved the consumption of alcoholic beverages on the premises by referendum, and in any county in which such municipalities are located if the voters of such county have approved the consumption of alcoholic beverages on the premises by referendum.

(i) A restaurant or hotel licensed under this chapter may seek an additional license permitting the restaurant or hotel to distribute and sell wine, beer and other alcoholic beverages at locations other than the licensed premises if the restaurant or hotel is providing catering services, if such location is within a jurisdiction where such sales are authorized. A caterer licensed under this chapter may distribute and sell wine, beer and other alcoholic beverages at locations other than the permanent catering hall if the caterer is providing catering services at a location that is within a jurisdiction where such sales are authorized.

(j) It is lawful to serve wine as defined in § 57-4-102 within a special historic district as defined in § 57-4-102 on Fridays and Saturdays. Such establishments serving wine within the special historic district shall not be required to obtain a special occasion license pursuant to § 57-4-102 or be required to obtain server permits pursuant to chapter 3, part 7 of this title. This section shall not apply to any restaurant or bar located within the special historic district.

(k) It is lawful to serve wine, as defined in § 57-3-101, to be consumed on the premises of any restaurant, as defined in § 57-4-102(31)(G), located in any county having a population of not less than sixty-nine thousand four hundred (69,400) nor more than sixty-nine thousand five hundred (69,500), according to the 2000 federal census or any subsequent federal census, subject to the further provisions of this chapter other than § 57-4-103.

(*l*) It is lawful to serve wine as defined in § 57-3-101, to be consumed on the premises of any restaurant as defined in § 57-4-102(31)(I), located in any county having a population of not less than one hundred twenty-six thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census, subject to the further provisions of this chapter other than § 57-4-103.

(m) A premier type tourist resort, as defined in § 57-4-102(28)(EEE), licensed pursuant to this part, shall be allowed to sell beer, as defined in § 57-5-101(b), to its patrons or guests, for either on-premises or off-premises consumption provided such premier type tourist resort, as defined in § 57-4-102(28)(EEE), obtains a permit, pursuant to chapter 5 of this title, issued by the county or city where such premier type tourist resort is located.

(n) A licensee who qualifies for a restaurant license, limited service restaurant license, or hotel license may also serve alcoholic beverages in any area of the premises designated on the application that is used for the purpose of entertainment activities. Entertainment activities may include, but are not limited to, bowling, billiards, games, auditoriums, darts, or golf driving ranges. Any area used for entertainment activities shall have table service or be within close observation distance from the service area of the facility as determined by the commission.

(o) It is lawful to furnish, dispense, or give away alcoholic beverages and beer without a license or permit issued by the commission at a private party or private event.

(p) An entity licensed or applying for a license under subsection (a), or a manufacturer exercising the rights granted to it under § 57-3-202(i)(1), may include in the entity's designation of its premises any contiguous area owned or controlled by the entity for purposes of on-premises consumption of alcoholic beverages and beer. If the contiguous area used for on-premises consumption is unenclosed, the entity shall make reasonable efforts to ensure that a customer cannot leave the premises with an alcoholic beverage or beer purchased on the premises by using barriers to prevent the ingress and egress of customers to and from the premises. If more than one (1) entity licensed under subsection (a) or § 57-3-202 operates within the same building or facility, the designations of premises under this subsection (p) may overlap;

provided, that each entity serves alcoholic beverages and beer in a glass or cup identifying the entity selling the alcoholic beverages or beer for on-premises consumption.

**History.**

Acts 1939, ch. 49, § 3; C. Supp. 1950, §§ 6648.4 (Williams, § 6648.6); T.C.A. (orig. ed.), § 57-106; Acts 1967, ch. 211, § 1; 1972, ch. 682, § 1; 1972, ch. 756, §§ 1, 2; 1975, ch. 111, §§ 1, 2; 1979, ch. 401, § 1; T.C.A., § 57-152; Acts 1980, ch. 898, § 1; 1981, ch. 404, § 1; 1981, ch. 475, § 1; 1983, ch. 52, § 1; 1983, ch. 229, § 6; 1983, ch. 300, § 2; 1983, ch. 469, § 1; 1984, ch. 975, § 1; 1985, ch. 190, § 1; 1986, ch. 899, §§ 1, 2; 1987, ch. 444, §§ 1, 2; 1989, ch. 145, § 1; 1990, ch. 919, § 1; 1991, ch. 219, § 1; 1992, ch. 674, § 1; 1992, ch. 982, § 1; 1995, ch. 306, § 1; 1996, ch. 749, § 1; 1998, ch. 795, §§ 1, 5; 1998, ch. 939, § 1; 1999, ch. 314, § 3; 1999, ch. 525, § 1; 2000, ch. 657, § 1; 2001, ch. 64, § 1; 2001, ch. 74, § 2; 2001, ch. 84, § 2; 2001, ch. 371, § 1; 2001, ch. 383, §§ 1, 4; 2002, ch. 647, § 2; 2004, ch. 544, § 2; 2004, ch. 857, § 2; 2005, ch. 212, §§ 3, 4; 2005, ch. 253, § 1; 2006, ch. 602, § 1; 2008, ch. 634, § 1; 2010, ch. 647, § 2; 2010, ch. 927, § 1; 2010, ch. 1133, § 1; 2011, ch. 447, § 2; 2014, ch. 907, § 2; 2014, ch. 1001, § 11; 2015, ch. 336, § 1; 2015, ch. 367, § 1; 2015, ch. 391, § 4; 2016, ch. 874, § 2; 2017, ch. 142, § 2; 2017, ch. 147, §§ 7, 8; 2018, ch. 755, §§ 1, 3; 2019, ch. 300, § 1; 2019, ch. 435, § 4; 2020, ch. 778, § 1; 2021, ch. 330, § 1.

**Amendments.**

The 2019 amendment by ch. 300 added (a)(9)(B).

The 2019 amendment by ch. 435, in (p), inserted ", or a manufacturer exercising the rights granted to it under § 57-3-202(i)(1)," in the first sentence, and inserted "or § 57-3-202" in the second sentence.

The 2020 amendment substituted "§ 57-4-102(41)(A), (B), and (D)," for "§ 57-4-102(41)(B) and (D)," in (a)(9)(B).

The 2021 amendment added (a)(22).

**Effective Dates.**

Acts 2019, ch. 300, § 2. May 8, 2019.
Acts 2019, ch. 435, § 6. May 22, 2019.
Acts 2020, ch. 778, § 2. July 15, 2020.
Acts 2021, ch. 330, § 5. May 4, 2021.

## 57-4-102. Chapter definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Alcoholic beverage" or "beverage" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer as defined in § 57-5-101(b). Notwithstanding any provision to the contrary in this title, "alcoholic beverage" or "beverage" also includes any product containing distilled alcohol capable of being consumed by a human being manufactured or made with distilled alcohol irrespective of alcoholic content, including any infused product;

(2) "Aquarium exhibition facility" means an enclosed facility possessing each of the following characteristics:

(A) The facility is owned and operated by a bona fide charitable or nonprofit organization that also owns and operates a "public aquarium" as defined in subdivision (30);

(B) The facility contains a minimum area of ten thousand square feet (10,000 sq. ft.); and

(C) The facility is used for either or both of the following purposes:

(i) The exhibition to the public of artifacts, physical objects, pictures and movies; or

(ii) To aid in the education of the public by means of interactive displays or stations, learning laboratories, and classroom areas for instruction in the physical sciences, natural history or other educational disciplines;

(3)(A) "Bed and breakfast establishment" has the same meaning as set forth in § 68-14-502(1)(A); provided, that such bed and breakfast estab-

lishment is located in a county having a population of not less than fifty-one thousand three hundred fifty (51,350) nor more than fifty-one thousand four hundred fifty (51,450), according to the 1990 federal census or any subsequent federal census and has eleven (11) furnished guest rooms;

(B) "Bed and breakfast establishment" also means an establishment:

(i) Founded in July 1987;

(ii) With twelve (12) rooms and five (5) cottages;

(iii) Located on approximately fifteen (15) acres;

(iv) Operating a full service day spa; and

(v) Located in a county with not less than eighty-nine thousand eight hundred (89,800) and not more than eighty-nine thousand nine hundred (89,900), according to the 2010 or any subsequent federal census;

(4) "Bona fide charitable or nonprofit organization" means any corporation which has been recognized as exempt from federal taxes under § 501(c) of the Internal Revenue Code (26 U.S.C. § 501(c)), or any organization having been in existence for at least two (2) consecutive years which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational or charitable purposes;

(5) "Bona fide political organization" means any political campaign committee as defined in § 2-10-102 or any political party as defined in § 2-13-101;

(6) "Caterer" means a business engaged in offering food and beverage service for a fee at various locations, which:

(A) Operates a permanent catering hall on an exclusive basis or restaurant;

(B) Has a complete and adequate commercial kitchen facility; and

(C) Is licensed as a caterer by the Tennessee department of health;

(7) "Civic arts center" means a complex that serves as a community center for the arts and further possesses the following characteristics:

(A) Has a performance hall with at least one thousand one hundred (1,100) seats;

(B) Has a flexible theater;

(C) Consists of two (2) buildings and an outdoor plaza between the buildings;

(D) Allows alcoholic beverages to be served when the civic arts center is hosting ticketed events, private functions or is rented to another party hosting an event open to the public; and

(E) Is located in a county having a population of not less than one hundred five thousand eight hundred (105,800) nor more than one hundred five thousand nine hundred (105,900), according to the 2000 federal census or any subsequent federal census;

(8)(A) "Club" means a nonprofit association organized and existing under the laws of this state, which has been in existence and operating as a nonprofit association for at least two (2) years prior to the application for a license hereunder, having at least one hundred (100) members regularly paying dues, organized and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net earnings of which inures

to the benefit of any shareholder or member; and owning, hiring or leasing a building or space therein for the reasonable use of its members with suitable kitchen and dining room space and equipment and maintaining and using a sufficient number of employees for cooking, preparing and serving meals for its members and guests; provided, that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of spirituous liquors, wines, champagnes or malt beverages beyond the amount of such salary as may be fixed by its members at an annual meeting or by its governing body out of the general revenue of the club. For the purpose of this section, tips which are added to the bills under club regulations shall not be considered as profits hereunder. The premises, as provided in § 57-4-101(a)(2) for a club, shall also include the golf course, tennis courts and the area immediately surrounding the swimming pool, if a club offers such amenities. The alcoholic beverage commission shall have specific authority through rules and regulations to define with specificity the terms used herein and to impose additional requirements upon applicants seeking a club license not inconsistent with the definition above;

(B) "Club" also means an organization composed of members of the Tennessee national guard, air national guard, or other active or reserve military units which operate facilities located on land owned or leased by this state and which are operated exclusively for the pleasure and recreation of such organization's members, dependents and guests and which are generally referred to as "NCO Clubs" or "Officers Clubs." Such NCO or officers clubs shall be subject to all of the requirements of subdivision (8)(A), except for those requirements relating to having a kitchen, kitchen equipment, and employees;

(C) "Club" also means a nonprofit association organized and existing under the laws of this state which is located in a county having a population of not less than twenty-eight thousand six hundred sixty (28,660) nor more than twenty-eight thousand six hundred ninety (28,690), according to the 1980 federal census or any subsequent federal census. Such club shall be located in a development containing no less than four hundred forty (440) acres and shall be organized and operated exclusively for the pleasure, recreation and other nonprofit purposes of its members and their guests. No part of the net earnings of the association shall inure to the benefit of any shareholder or member. The club shall provide to its members a regulation golf course, tennis courts, and a swimming pool. The club shall own, hire or lease a building or buildings for the reasonable use of its members with suitable kitchen and dining room space and equipment. Such club shall maintain and use a sufficient number of employees for cooking, preparing and serving meals for its members and guests. No member or officer, agent or employee of the club shall be paid, or directly or indirectly receive in the form of salary or other compensation any profits from the sale of alcoholic beverage or malt beverage beyond the amount of such salary as may be fixed by its members at an annual meeting, or by its governing body out of the general revenues

of the club. For the purpose of this section, tips which are added to the bills under club regulations shall not be considered as profits hereunder. The alcoholic beverage commission shall have specific authority through rules and regulations to define with specificity the terms used herein and to impose additional requirements upon applicants seeking a club license not inconsistent with this definition;

(D)(i) "Club" also means a for-profit recreational club organized and existing under the laws of this state and which has been in existence and operating for at least two (2) years prior to the application for a license. Such club shall have at least one hundred (100) members regularly paying dues, and shall be organized and operated exclusively for recreation, and providing to its members a regulation golf course and owning, hiring or leasing a building or buildings for the reasonable use of its members, with suitable kitchen and dining room space and equipment, and lodging facilities consisting of not less than ten (10) rooms. Such club shall maintain and use a sufficient number of employees for cooking, preparing and serving meals for its members and guests and providing lodging facilities to its members and guests. Other than the payment of dividends to the shareholders of the club from its net income derived from all of its operations, no member or officer, agent or employee of the club shall be paid, or shall directly or indirectly receive in the form of salary or other compensation, any profits from the sale of alcoholic beverages or malt beverages beyond the amount of such salary as may be fixed by the shareholders of the corporation at an annual meeting by its governing body out of the general revenues of the club. For the purpose of this section, tips which are added to the bills under club regulations shall not be considered as profits hereunder. The alcoholic beverage commission shall have specific authority through rules and regulations to define with specificity the terms used herein and to impose additional requirements upon applicants seeking a club license not inconsistent with this definition. The alcoholic beverage commission shall not issue a license to any for-profit recreational club which restricts membership based on race or religion or sex. In any proceeding concerning a license denial or revocation under this subdivision (8)(D)(i), no quota or numerical percentage shall be used to establish proof of the prohibited discrimination among the club's membership;

(ii) Notwithstanding § 57-4-101(a)(2) to the contrary, this subdivision (8)(D) shall not apply in any municipality which has not approved the sale of alcoholic beverages for consumption on the premises pursuant to § 57-4-103;

(iii) This subdivision (8)(D) only applies in counties having a population of not less than two hundred eighty-seven thousand seven hundred (287,700) nor more than two hundred eighty-seven thousand eight hundred (287,800), according to the 1980 federal census or any subsequent federal census;

(E)(i) "Club" also means a for-profit recreational club, organized and existing under the laws of this state, which has at least two hundred

fifty (250) dues-paying members who pay dues of at least one hundred dollars ($100) a year. Such club shall have golf courses containing at least twenty-seven (27) holes, collectively, for the use of its members and guests, and have suitable kitchen and dining facilities. Such club shall serve at least one (1) meal daily, five (5) days a week. Such club may not compensate or pay any officer, director, agent or employee any profits from the sale of alcoholic or malt beverages based upon the volume of such beverages sold. Such club shall not discriminate against any patron or potential member on the basis of gender, race, religion or national origin;

(ii) This subdivision (8)(E) only applies in counties having a population of not less than eighty thousand (80,000) nor more than eighty-three thousand (83,000), according to the 1990 federal census or any subsequent federal census;

(F)(i)*(a)* "Club" also means a for-profit recreational club, organized and existing under the laws of this state, which has at least two hundred twenty-five (225) dues-paying members who pay dues of at least three hundred dollars ($300) a year. Such club shall have a clubhouse with not less than five thousand square feet (5,000 sq. ft.), golf courses containing at least eighteen (18) holes, collectively, for the use of its members and guests, and have suitable kitchen and dining facilities. Such club shall serve at least one (1) meal daily, five (5) days a week. Such club may not compensate or pay any officer, director, agent or employee any profits from the sale of alcoholic or malt beverages based upon the volume of such beverages sold. Such club shall not discriminate against any patron or potential member on the basis of gender, race, religion or national origin. It is the express intention of the general assembly that the law concerning the purchase or possession of alcoholic beverages by persons under twenty-one (21) years of age be strictly enforced in such clubs;

*(b)* The premises, as provided in § 57-4-101(a)(2) for a club, whether such parcels comprising the club premises are contiguous or not, shall also include the golf course, including beverage carts; tennis courts; all areas of the clubhouse; the area immediately surrounding the swimming pool, if a club offers such amenities; and all other related recreational facilities;

(ii) This subdivision (8)(F) only applies in any county having a population of:

| not less than | nor more than |
|---|---|
| 21,800 | 22,100 |
| 22,600 | 23,000 |
| 34,850 | 35,000 |
| 80,000 | 83,000 |
| 103,100 | 103,400 |

according to the 1990 federal census or any subsequent federal census;

(G) "Club" also means a clubhouse owned and operated by a for-profit corporation, which is open to the public but has at least one hundred fifty

(150) private members and seats at least one hundred (100) persons, that is a planned part of a residential development consisting of no less than two hundred fifty (250) acres and at least one hundred ninety (190) residential units, and such development contains an eighteen-hole golf course under separate ownership; provided, that such club is located in a county having a population of not less than one hundred three thousand one hundred (103,100) nor more than one hundred three thousand four hundred (103,400), according to the 1990 federal census or any subsequent federal census and in a municipality which lies within two (2) contiguous counties;

(H) "Club" also means a facility owned by a for-profit corporation incorporated in Tennessee prior to September 30, 2000, as a private club which does not discriminate against members or potential members or bona fide guests of such members on the basis of gender, race, religion or national origin, and further possesses the following characteristics:

(i) Is located within three (3) miles of a municipal golf course owned and operated by a home-rule municipality located in a county having a charter form of government and having a population of not less than three hundred eighty-two thousand (382,000) nor more than three hundred eighty-two thousand one hundred (382,100), according to the 2000 federal census or any subsequent federal census;

(ii) Has, on July 3, 2002, a minimum of three hundred (300) members paying annual dues with a copy of membership applications on file on the premises, and which issues to its members a membership card which authorizes admittance of the member and bona fide guests of such member; and

(iii) Has a kitchen and dining area having a minimum seating capacity of seventy-five (75) in a building having at least eighteen hundred square feet (1800 sq. ft.);

(I)(i) "Club" also means a for-profit recreational club organized and existing under the laws of this state which has been in existence and operating for at least two (2) years prior to June 11, 2003, and which is located in any county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census, and further possesses the following characteristics:

*(a)* Has at least one hundred seventy-five (175) members paying annual dues and does not discriminate against members or potential members or bona fide guests of such members on the basis of gender, race, religion or national origin;

*(b)* Is organized and operated exclusively for recreation and providing a regulation eighteen-hole golf course for the use of its members and guests, and also offers for the use of its members and guests a swimming pool and tennis facility; and

*(c)* Has a clubhouse with not less than three thousand square feet (3,000 sq. ft.) with suitable kitchen, dining facilities and equipment, serving at least one (1) meal daily, at least five (5) days a week;

(ii) Such club may not compensate or pay any officer, director, agent or employee any profits from the sale of alcoholic or malt beverages based upon the volume of such beverages sold;

(iii) It is the express intention of the general assembly that the law concerning the purchase or possession of alcoholic beverages by persons under twenty-one (21) years of age be strictly enforced by such club;

(J) "Club" also means a for-profit recreational club, organized and existing under the laws of this state, which is located in any county having a population of not less than one hundred thirty thousand (130,000) nor more than one hundred thirty-one thousand (131,000), according to the 2000 federal census or any subsequent federal census, and further possesses the following characteristics:

(i) The club shall be adjacent to a residential development consisting of at least one hundred (100) residential units, and the club property and such residential development shall consist of at least two hundred (200) acres;

(ii) The residential development shall be adjacent to a lake with an area greater than twenty (20) acres;

(iii) The club shall be organized and operated to provide to its members, their guests, and others an eighteen-hole golf course and amenities provided by other similar clubs;

(iv) The club shall serve at least one (1) meal daily, five (5) days a week;

(v) The club shall have a clubhouse with not less than three thousand square feet (3,000 sq. ft.) with suitable kitchen, dining facilities and equipment; and

(vi) The club shall not discriminate against any person on the basis of gender, race, religion or national origin;

(K)(i) "Club" also means a for-profit recreational club organized and existing under the laws of this state that has been in existence and operating for at least two (2) years prior to March 31, 2003, and that is located in any county not having a metropolitan form of government and having a population of not less than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, and further possesses the following characteristics:

*(a)* Has at least two hundred twenty-five (225) members paying monthly or annual dues, or both, and does not discriminate against members or potential members or bona fide guests of the members on the basis of gender, race, religion or national origin;

*(b)* Is organized and operated exclusively for recreation and provides a regulation eighteen-hole golf course for the use of its members and guests, and may or may not also provide for the use of its members and guests a swimming pool and tennis facility; and

*(c)* Has a clubhouse with not less than ten thousand square feet (10,000 sq. ft.) with suitable kitchen, dining facilities and equipment, serving at least one (1) meal daily, at least five (5) days a week;

*(d)* The club may not compensate or pay any officer, director, agent or employee any profits from the sale of alcoholic or malt beverages

based on the volume of those beverages sold;

(ii) It is the express intention of the general assembly that the law concerning the purchase or possession of alcoholic beverages by persons under twenty-one (21) years of age be strictly enforced by the club;

(L)(i) "Club" also means a for-profit recreational club, organized and existing under the laws of this state, which is located in a county having a population of not less than four hundred thirty-two thousand two hundred (432,200) nor more than four hundred thirty-two thousand three hundred (432,300), as of the 2010 federal census or any subsequent federal census, and further possesses the following characteristics:

*(a)* Has at least three hundred (300) members, as of December 23, 2015, paying dues with a copy of membership applications on file on the premises and which issues to its members a membership card which authorizes admittance of the member and bona fide guests of such member;

*(b)* Is organized and operated exclusively for recreation and provides a regulation eighteen-hole golf course for the use of its members and guests, and also may offer for the use of its members and guests a swimming pool and other recreational amenities;

*(c)* Has a clubhouse with not less than ten thousand square feet (10,000 sq. ft.) with a suitable kitchen, dining facilities, and equipment, serving at least one (1) meal daily at least five (5) days a week;

*(d)* The club may not compensate or pay any officer, director, agent, or employee any profits from the sale of alcoholic or malt beverages based on the volume of those beverages sold; and

*(e)* The premises, as provided in § 57-4-101(a)(2) for a club, whether such parcels comprising the club premises are contiguous or not, shall also include the golf course, including beverage carts; tennis courts; all areas of the clubhouse; the area immediately surrounding the swimming pool, if a club offers such amenities; and all other related recreational facilities; and

*(f)* Does not discriminate against members or potential members or bona fide guests of such members on the basis of gender, race, religion, or national origin;

(ii) It is the express intention of the general assembly that the law concerning the purchase or possession of alcoholic beverages by persons under twenty-one (21) years of age be strictly enforced by the club;

(M)(i) "Club" also means a for-profit recreational club, organized and existing under the laws of this state, which is located in a county having a population of not less than one hundred twenty-two thousand nine hundred (122,900) nor more than one hundred twenty-three thousand (123,000), according to the 2010 federal census or any subsequent federal census, and further possesses the following characteristics:

*(a)* Has at least three hundred (300) members, as of January 1, 2017, paying dues with a copy of membership applications on file on the premises and that issues to its members a membership card which authorizes admittance of the member and bona fide guests of such

member;

*(b)* Is located within a planned residential development consisting of no less than six hundred (600) acres and at least three hundred (300) residential dwelling units, and such residential development contains an eighteen-hole golf course;

*(c)* Is organized and operated exclusively for recreation and provides a regulation eighteen-hole golf course for the use of its members and guests, and also may offer its members and guests the use of a swimming pool, tennis courts, and other recreational amenities;

*(d)* Has a clubhouse with not less than nine thousand square feet (9,000 sq. ft.) with a suitable kitchen, dining facilities, and equipment, serving at least one (1) meal daily at least five (5) days a week;

*(e)* The club does not compensate or pay any officer, director, agent, or employee from any profits from the sale of alcoholic or malt beverages based on the volume of those beverages sold;

*(f)* The premises, as provided in § 57-4-101(a)(2), for a club, whether such parcel comprising the club premises are contiguous or not, shall also include the golf course; tennis courts; all areas of the clubhouse; the area immediately surrounding the swimming pool, if a club offers such amenities; and all other related recreational facilities; and

*(g)* Does not discriminate against members or potential members or bona fide guests of such members on the basis of gender, race, color, age, religion, or national origin; and

(ii) It is the express intention of the general assembly that the law concerning the purchase or possession of alcoholic beverages by persons under twenty-one (21) years of age be strictly enforced by the club;

(N)(i) "Club" also means a for-profit membership-based social club, organized and existing under the laws of this state, that is located in a county with a metropolitan form of government having a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census, and further possesses the following characteristics:

*(a)* Is located within a building containing three (3) floors and a rooftop area, totaling approximately six thousand square feet (6,000 sq. ft.) that houses a bar, coffee bar, cigar lounge with lockers, meeting and relaxation space, conference rooms, private call rooms, and workstations;

*(b)* Is within a central business improvement district as of 2020;

*(c)* Is organized and operated exclusively for offering an upscale business club environment for learning and networking, where members receive exclusive access to amenities and opportunities in the city;

*(d)* Has at least ten (10) members paying monthly or annual dues, as of January 1, 2020, with a copy of membership applications on file on the premises and that issues to its members a proximity reader security access card which authorizes admittance of the member and bona fide guests of such member;

*(e)* Offers its members the ability to purchase all club-related services and experiences through cash or credit card;

*(f)* Offers its members access to multiple locations across the United States, each tailored to its city and located in prime business districts, and offers its members access to experience specialists, who arrange for its members' needs, ranging from dinner reservations, vacation rentals, and unique travel amenities and luxury experiences; and

*(g)* Does not discriminate against members or potential members or bona fide guests of such members on the basis of gender, race, creed, color, sex, age, religion, or national origin;

(ii) The premises for the club, includes all floors of the singular building constituting the club, whether contiguous or not and connected through stairwells and elevators; the rooftop area; and any area within the building designated by the club in its application for licensure for consumption of alcoholic beverages on the premises;

(9) "Commercial airline" includes any airline operating in interstate commerce under a certificate of public convenience and necessity issued by the appropriate federal or state agency, or under an exemption from the requirement of obtaining a certificate of public convenience and necessity but otherwise regulated by an appropriate federal or state agency, with adequate facilities and equipment for serving passengers, on regular schedules, or charter trips, while moving through any county of the state, but not while any such commercial airline is stopped in a county or municipality that has not legalized such sales;

(10) "Commercial airline travel club" means an organization established and operated by or for a commercial airline as defined in this section for the convenience and comfort of airline passengers;

(11) "Commercial passenger boat company" means a company that operates one (1) or more passenger vessels for hire upon navigable waterways and is licensed by the United States Coast Guard to carry not less than fifty (50) passengers on a single vessel. A commercial passenger boat company licensed pursuant to this chapter shall not sell any type of alcoholic beverage or beer while such boat is docked within the boundaries of any local government that has not approved the sale of alcoholic beverages pursuant to § 57-4-103. A commercial passenger boat company may only operate out of a county that has a population:

(A) In excess of two hundred eighty-five thousand (285,000), according to the 1980 federal census or any subsequent federal census;

(B) Not less than eighty-three thousand three hundred (83,300) nor more than eighty-three thousand four hundred (83,400), according to the 1980 federal census or any subsequent federal census; or

(C) Not less than one hundred sixty thousand six hundred (160,600) nor more than one hundred sixty thousand seven hundred (160,700), according to the 2010 federal census or any subsequent federal census;

(12) "Commission" means the alcoholic beverage commission, created pursuant to chapter 1 of this title;

(13)(A) "Community theater" means a facility or theater possessing each of

the following characteristics:

(i) The community theater is at least eight (8) years old;

(ii) The theater is operated by a not-for-profit corporation which is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member or officer, agent or employee of any community theater shall be paid, or directly or indirectly receive, in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed by its governing body for the reasonable performance of their assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation and maintenance of the community theater, and in furtherance of the purposes of the organization. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation, renovation, refurbishing, and maintenance of the theater. No alcoholic beverages or beverages of any kind shall be possessed or consumed inside the auditorium of such theater during performances in such auditorium;

(iii) The theater provides or leases facilities for theatrical programs of cultural, civic and educational interest; and

(iv) The theater is located in any county having a population of not less than seven hundred thousand (700,000), according to the 1980 federal census or any subsequent federal census;

(B) "Community theater" also includes a facility or theater possessing each of the following characteristics:

(i) The facility has a performance hall seating not less than two hundred fifty (250) persons, a resource library, rehearsal rooms, and permanent exhibition space of not less than nine thousand square feet (9,000 sq. ft.);

(ii) The facility is operated by a not-for-profit corporation which is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member or officer, agent or employee of any community theater shall be paid, or directly or indirectly receive, in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed by its governing body for the reasonable performance of their assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation and maintenance of the facility, and in furtherance of the purposes of the organization;

(iii) The facility provides or leases facilities for concerts and programs of cultural, civic and educational interest; and

(iv) The facility is located in any county having a population of not less than two hundred eighty-five thousand (285,000) nor more than two hundred eighty-six thousand (286,000), according to the 1990 federal census or any subsequent federal census;

(C) Alcoholic beverages may be sold at a community theater only during one (1) performance or benefit program a day and only one (1) hour before, during and one (1) hour after the performance or benefit program;

(D) "Community theater" also includes a facility or theater possessing each of the following characteristics:

(i) The facility is located in a building that is at least eighty (80) years old;

(ii) The facility has a performance hall seating approximately two hundred fifty (250) persons;

(iii) The facility is operated by a not-for-profit corporation that is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), and no member or officer, agent or employee of any community theater is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond the amount of the salary as may be fixed by its governing body for the reasonable performance of the person's assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation, renovation, refurbishing and maintenance of the facility, and in furtherance of the purposes of the organization;

(iv) Alcoholic beverages shall only be sold before or after performances or during intermissions in the performances, and no alcoholic beverages shall be consumed inside the auditorium of the facility; and

(v) The facility is located within a municipality that has authorized the sale of alcoholic beverages for consumption on the premises, in a referendum in the manner prescribed by § 57-3-106, in any county having a population of not less than thirty-three thousand five hundred twenty-five (33,525) nor more than thirty-three thousand six hundred (33,600), according to the 2000 federal census or any subsequent federal census;

(E) "Community theater" also includes a privately owned facility possessing each of the following characteristics:

(i) Is a community theater in continuous operation since 1943;

(ii) Is primarily a volunteer organization with limited salaried staff;

(iii) Has an auditorium with more than three hundred (300) seats;

(iv) Is located on an historic square and is allowed to sell alcoholic beverages at up to five (5) special events annually that are held on the historic square along with being allowed to sell alcoholic beverages as provided in subdivision (13)(C); and

(v) Is located in any county having a population of not less than seventy-one thousand three hundred (71,300) nor more than seventy-one thousand four hundred (71,400), according to the 2000 federal census or any subsequent federal census;

(F) "Community theater" also includes a facility or theater possessing each of the following characteristics:

(i) The facility is at least twenty-seven (27) years old;

(ii) The facility has a performance hall seating not less than one hundred fifty (150) persons and not more than five hundred (500) persons;

(iii) The facility is operated by a not-for-profit corporation which is exempt from taxation under § 501(c) of the Internal Revenue Code of

1954 (26 U.S.C. § 501(c)), as amended, where no member or officer, agent or employee of any community theater is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond the amount of the salary as may be fixed by its governing body for the reasonable performance of the person's assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation, renovation, refurbishing and maintenance of the facility, and in furtherance of the purposes of the organization; and

(iv) The facility is located in any county having a population of not less than one hundred thirty-four thousand seven hundred (134,700) nor more than one hundred thirty-four thousand eight hundred (134,800), according to the 2000 federal census or any subsequent federal census;

(G) "Community theater" also includes a municipally owned facility possessing each of the following characteristics:

(i) Is a community theater in continuous operation since 1980;

(ii) Has an auditorium with more than three hundred (300) seats;

(iii) Provides or leases facilities for concerts, plays and programs of cultural, civic and education interest; and

(iv) The facility is located in any municipality that has authorized the sale of alcoholic beverages for consumption on the premises, in a referendum in the manner prescribed by § 57-3-106, and the municipality has a population of not less than twenty-three thousand nine hundred twenty (23,920), nor more than twenty-three thousand nine hundred thirty (23,930), according to the 2000 federal census or any subsequent federal census;

(H) "Community theater" also means a theater possessing each of the following characteristics:

(i) The theater was founded in 1923;

(ii) The theater has a main performance hall with not less than three hundred eighty (380) seats;

(iii) The theater has an auxiliary performance hall with not less than two hundred (200) seats;

(iv) The facility is operated by a not-for-profit corporation that is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member, officer, agent, or employee of the theater is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond the amount of the salary as may be fixed by its governing body for the reasonable performance of the person's assigned duties. All profits from the sale of alcoholic beverages by the not-for-profit corporation must be used for the operation, renovation, refurbishing, and maintenance of the theater, and in furtherance of the purposes of the organization. Alcoholic beverages may be sold before, during, and after performances, and may be consumed inside any auditorium or performance hall within the theater; and

(v) The theater is located within one thousand feet (1,000′) of the Tennessee River in a city with a population of one hundred sixty-seven

thousand six hundred seventy-four (167,674), according to the 2010 federal census or any subsequent federal census;

(I) "Community theater" also means a theater possessing each of the following characteristics:

(i) The theater opened on December 9, 1949;

(ii) The theater originally seated approximately one thousand (1,000) persons in spring-covered chairs;

(iii) The theater reopened in July of 2012, serving as a multifunctional event venue, hosting weddings, concerts, nonprofit events, movies, and musical theatre; and

(iv) The theater is located in a city with a population of not less than twenty-six thousand one hundred ninety (26,190) and not more than twenty-six thousand one hundred ninety-nine (26,199), according to the 2010 and any subsequent federal census;

(J) "Community theater" also means a theater possessing each of the following characteristics:

(i) The theater was opened in 1995;

(ii) The theater's performance hall has seating for at least one hundred twenty (120) patrons;

(iii) The theater is used for concerts, plays, and programs of cultural, civic, and educational interest;

(iv) The theater is operated by a not-for-profit corporation that is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member, officer, agent, or employee of the theater is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond the amount of the salary as may be fixed by its governing body for the reasonable performance of the person's assigned duties. All profits from the sale of alcoholic beverages by the not-for-profit corporation must be used for the operation, renovation, refurbishing, and maintenance of the theater, and in furtherance of the purposes of the organization. Alcoholic beverages may be sold before, during, and after performances, and may be consumed inside any auditorium or performance hall within the theater; and

(v) The theater is located in a county having a population not less than two hundred sixty-two thousand six hundred (262,600) nor more than two hundred sixty-two thousand seven hundred (262,700), according to the 2010 federal census or any subsequent federal census;

(K) "Community theater" also means a theater possessing each of the following characteristics:

(i) The theater began operating in 1965;

(ii) The theater is the only major nonprofit professional performing arts resource in rural Tennessee, and one (1) of the ten (10) largest professional theaters in rural America;

(iii) The theater serves more than one hundred forty-five thousand (145,000) visitors annually with two (2) indoor and two (2) outdoor stages;

(iv) The theater provides young audience productions, a comprehen-

sive dance program, a concert series, and touring shows;

(v) The theater was the recipient of the Governor's Arts Award for the state of Tennessee in 1984;

(vi) The theater is operated by a nonprofit corporation that is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member, officer, agent, or employee of the theater is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond the amount of the salary as may be fixed by its governing body for the reasonable performance of the person's assigned duties. All profits from the sale of alcoholic beverages by the nonprofit corporation must be used for the operation, renovation, refurbishing, and maintenance of the theater, and in furtherance of the purposes of the organization. Alcoholic beverages may be sold before, during, and after performances, and may be consumed inside any auditorium or performance hall within the theater, or on theater property contiguous to an outdoor performance stage; and

(vii) The theater is located in a city having a population of not less than ten thousand seven hundred ninety (10,790) and not more than ten thousand seven hundred ninety-nine (10,799), according to the 2010 federal census or any subsequent federal census;

(L) "Community theater" also means a theater that:

(i) Operates as a community performing arts and civics center in a city with a population of not less than eighteen thousand six hundred fifty (18,650) and not more than eighteen thousand six hundred fifty-nine (18,659), according to the 2010 or any subsequent federal census;

(ii) Was originally built as a school in 1886;

(iii) Contains an auditorium with a full stage, a proscenium arch, and seating for not less than four hundred (400) persons; and

(iv) Contains conference and meeting rooms and a local history museum;

(M) "Community theater" also means a municipally owned facility that:

(i) Is a historic theater located off West Main Street;

(ii) Has an auditorium with not less than three hundred (300) seats;

(iii) Is used for theatrical performances, musical events, storytelling performances, workshops and conferences, and independent films;

(iv) Is located in a municipality having a population of not less than five thousand fifty (5,050) nor more than five thousand fifty-nine (5,059), according to the 2010 federal census or any subsequent federal census; and

(v) Is located in a county having a population of not less than one hundred twenty-two thousand nine hundred (122,900) nor more than one hundred twenty-three thousand (123,000), according to the 2010 federal census or any subsequent federal census;

(N) "Community theater" also means a facility that:

(i) Is leased long-term by a municipality;

(ii) Contains not less than one hundred thirty (130) seats;

(iii) Is governed by a nonprofit board of directors;

(iv) Is operated under the direction of a municipality's staff;

(v) Is located in a municipality having a population of not less than five thousand fifty (5,050) nor more than five thousand fifty-nine (5,059), according to the 2010 federal census or any subsequent federal census; and

(vi) Is located in a county having a population of not less than one hundred twenty-two thousand nine hundred (122,900) nor more than one hundred twenty-three thousand (123,000), according to the 2010 federal census or any subsequent federal census;

(14)(A) "Convention center" means a facility possessing each of the following characteristics:

(i) Owned by the state, municipal and/or county government, or a nonprofit, tax exempt, charitable organization that operates a symphony orchestra, and leased or operated by that government or by a nonprofit charitable corporation established to operate such facility;

(ii) Designed and used for the purposes of holding meetings, conventions, trade shows, classes, dances, banquets and various artistic, musical or other cultural events;

*(a)* A convention center does not include a building located within one thousand (1,000) yards of both a student museum and a zoological park; provided, that any restaurant, located within a former world's fair site or a zoological park and which meets the requirements of subdivision (31), shall be eligible for licensure under this chapter as long as the requirements of this chapter are otherwise met;

*(b)* A convention center also does not include a building which is more than twenty (20) years old and is located in any county having a population of not less than two hundred eighty-seven thousand seven hundred (287,700) nor more than two hundred eighty-seven thousand eight hundred (287,800), according to the 1980 federal census or any subsequent federal census;

(iii)*(a)* Except as provided for in (14)(A)(iii)(*b*), which state-owned facility, operated by a nonprofit charitable corporation established to operate such facility, has a designated, restricted area outside the seating area of any theater within which area the consumption of such alcoholic beverages shall be permitted. The sale of such alcoholic beverages in such facility is limited to no more than one (1) hour and fifteen (15) minutes prior to a meeting, show, performance, reception, or other similar event, and to no later than thirty (30) minutes after such event; and

*(b)* In a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census, which state-owned facility, operated by a nonprofit charitable corporation established to operate such facility, or facility owned by a nonprofit, tax exempt, charitable organization that operates a symphony orchestra, has designated an area within or adjacent to any theatre or meeting space, or adjacent to the facility within which area the consumption of alcoholic beverages shall be permitted. Nothing

herein shall restrict the ability of a convention center, as defined herein, from adjusting the designated area within or adjacent to its theatre areas, upon adequate prior notice to the commission;

(iv) Located in a municipality having a population in excess of one hundred fifty thousand (150,000) and in a county having a population in excess of two hundred thousand (200,000), or both, according to the 1980 federal census or any subsequent federal census;

(v) A convention center licensed under this subdivision (14)(A) shall have the privilege of granting a franchise for the provision of food or beverage, including alcoholic beverages, on its premises, and the holder of the franchise shall also be considered a convention center under this subdivision (14)(A);

(B) "Convention center" also means a facility meeting the criteria of subdivision (14)(A)(i) and (ii) and located in a premiere resort city as defined by § 67-6-103(a)(3)(B)(i);

(C) "Convention center" also means a facility possessing each of the following characteristics:

(i) Owned by a county public building authority at the time of development;

(ii) Designed and used for the purposes of attracting conventions, business travelers, tourists and other visitors to promote economic development;

(iii) Located at the intersection of Interstate 24 and Highway 41 near mile marker 114;

(iv) Occupies an area of not less than approximately thirteen thousand five hundred square feet (13,500 sq. ft.); and

(v) Includes a full commercial kitchen to provide meals and catering services;

(D) "Convention center" also means a facility possessing each of the following characteristics:

(i) Is owned by a quasi-governmental development agency;

(ii) Is designed and used for the purposes of attracting conventions, business travelers and tourists to the area and is vital in promoting economic development, fostering community activities, providing training and seminar space for business and industries and in encouraging tourism;

(iii) Is available for community, industry and private events;

(iv) Is the only one of its kind in the area;

(v) Has a seating capacity of approximately three hundred (300) and is fully equipped with tables, chairs, linens, dishware and a catering kitchen;

(vi) Occupies an area of approximately eight thousand five hundred square feet (8,500 sq. ft.) on acreage surrounding Tellico Lake; and

(vii) Is located in a county having a population of not less than forty-four thousand five hundred (44,500) nor more than forty-four thousand six hundred (44,600), according to the 2010 federal census or any subsequent federal census; and

(E) No member or officer, agent or employee of any convention center as defined by this section shall be paid, or directly or indirectly receive, in the

form of salary or other compensation any profits from the sale of spirituous liquors, wines, champagnes, malt beverages or any other alcoholic beverage beyond the amount of such salary as may be fixed by its governing body out of the general revenue of the center. All profits from the sale of such alcoholic beverages shall be used for the operation and maintenance of the convention center;

(15) "Country club located on an historic property" means a country club that is located in a county having a population of not less than forty-four thousand five hundred (44,500) nor more than forty-five thousand (45,000), according to the 1990 federal census or any subsequent federal census, and has the following characteristics:

(A) Sits on real property that was formerly the home of the International Printing Pressmen Union;

(B) Has a dining facility; and

(C) Is located adjacent to an eighteen-hole golf course;

(16)(A) "Festival operator" means a person licensed under this subdivision (16) who is either a for-profit business operating a festival for a period of up to seven (7) days in length in which alcoholic beverages or beer will be sold, given away, or otherwise dispensed or a third party with whom such for-profit business engages to conduct alcoholic beverage or beer sales during such festival;

(B) The commission shall issue a license to a festival operator upon the payment of a fee of one thousand dollars ($1,000) per day of the festival, and the submission of an application on a form prescribed by the commission that provides proof satisfactory of the following information, to the satisfaction of the commission:

(i) The premises on which alcoholic beverages or beer will be served, sold, dispensed, or consumed is sufficiently designated, enclosed, secured, and maintained;

(ii) Adequate security for the festival is provided;

(iii) The number and location of each point of sale in which alcoholic beverages or beer will be served, sold, dispensed, or consumed is specified. If the operator of any such point of sale, including any person or entity that receives any portion of the proceeds of the sale of alcoholic beverages or beer from that point of sale, is different from the festival operator, the name and relevant information of such other operator must be specified on the application to the commission, and the commission may determine that such other operator is required to obtain an additional festival operator license;

(iv) The staff selling, serving, or dispensing alcoholic beverages or beer are adequately trained and supervised in the service of alcoholic beverages and beer and on the applicable laws regarding such service;

(v) The city or county in which, or the state governmental entity responsible for the property on which, the festival is to be held has approved the festival; and

(vi) If the applicant intends to sell, serve, or dispense beer, the applicant has a beer permit issued in accordance with chapter 5 of this title;

(C) No person licensed under this title, operating in conjunction with a festival operator licensee, or performing any activities for which a license is otherwise required under this title, other than a festival operator or special occasion licensee licensed under this section, may provide any service, item, or other thing of value to a festival operator or with respect to a festival operator's festival, except as may be expressly authorized by the commission. Additionally, no festival operator may receive or accept any item or service that a person under this subdivision (16) is prohibited from providing. All alcoholic beverages used for the festival must be purchased from wholesalers licensed under § 57-3-203. Notwithstanding any law to the contrary, a wholesaler may buy back any unopened and resalable bottles of alcoholic beverages at the end of the festival. A wholesaler shall keep all records, as may be required by the commission, necessary to document the purchase of such products pursuant to this subdivision (16);

(D) All applicable taxes, including the tax levied on the sale of alcoholic beverages for consumption on the premises under § 57-4-301, must be remitted as required by law;

(E) Alcoholic beverages and beer may be sold, given away, dispensed, or consumed only within hours sufficient to ensure adequate public health, safety, and welfare as determined by the commission or local beer board, as applicable;

(F) Notwithstanding any law to the contrary, if the commission finds that any of the requirements of this subdivision (16) have not been, or are not being, met by a festival operator during a festival or after the completion of a festival, or that the festival operator misrepresented information in the person's application, the commission may use the failure or misrepresentation as the basis to summarily suspend the license of the festival operator, to deny any future applications for a festival operator license for a period of up to two (2) years after the festival in which the failure or misrepresentation occurred, or to issue a fine of up to ten thousand dollars ($10,000) per violation, which disciplinary action must be resolved prior to the issuance of any new festival operator license to the festival operator;

(17)(A) "Food hall" means a public place:

(i) Kept, used, maintained, advertised, and held out to the public as a place where meals are served and where meals are actually and regularly served;

(ii) With adequate and sanitary kitchens, dining room equipment, and a seating capacity of at least one thousand two hundred (1,200) people at tables, counters, and other places for dining;

(iii) Having a sufficient number and kind of persons to prepare, cook, and serve suitable food for guests; and

(iv) Located in a facility or designated area having the following characteristics upon completion of construction:

*(a)* The facility has at least ninety thousand square feet (90,000 sq. ft.) in a multi-level mixed-used commercial building which includes restaurants, bars, and a rooftop with a live music venue;

*(b)* The facility includes at least twenty (20) separate points of sale, contiguous or noncontiguous, that regularly prepare and sell food;

*(c)* The property that houses the facility is across a public street from a live performance venue that was originally constructed in 1892 as a religious facility;

*(d)* The property that houses the facility is adjacent to a facility originally constructed in 1925 that houses the Grand Lodge of Free and Accepted Masons of Tennessee; and

*(e)* The facility is located in a county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(B) The premises of a food hall means any or all of the property that constitutes the food hall, except any other separately licensed premises that are located in the food hall. The licensee may operate multiple points of sale with different business names within the food hall. The licensee shall designate the premises and each point of sale to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The points of sale may be noncontiguous within the licensed premises. The entire designated premises is covered under one (1) license issued under this subdivision (17). The licensee does not have to prepare or sell food as a condition of the license;

(C) A licensee licensed as a food hall may grant a franchise for the provision of alcoholic beverages to a person that regularly prepares and sells food on the food hall premises. The holder of the franchise is deemed to be a food hall under this subdivision (17), and such franchisee is not required to obtain its own license; provided, that prior notice must be given to the commission, in such manner as may be prescribed by the commission. The licensee shall pay the commission for each franchisee licensed under this subdivision (17) a six hundred twenty-five dollar ($625) annual privilege tax, which may be prorated for the first year based on the renewal date of the licensee;

(D) A restaurant may be located within the premises of a food hall; provided, that the defined premises of such restaurant may be open for public ingress and egress within the premises of the food hall. Such restaurant may store its inventory of beer and alcoholic beverages on the licensed premises of the restaurant or food hall pursuant to subdivision (17)(G);

(E) Each separate operating entity under the food hall license, whether the licensee or a franchisee, is independently liable for violations committed by such operating entity, and a separate operating entity must not be held liable for the actions of another; provided, that the food hall license must not be renewed until all citations are resolved by an applicable operating entity. The commission may suspend or revoke the authority of a franchisee to operate under the food hall license without the operation of any other franchisee or the licensee under the license being affected. Each operating entity shall provide sufficient information to the commission to where the commission is able to determine which operating entity may be liable in the event of a violation;

(F) A licensee licensed under this subdivision (17) may serve wine, high gravity beer, and beer in its original container, and spirit-based beverages in original containers that do not exceed three hundred seventy-five milliliters (375 ml) and an alcohol content that does not exceed fifteen percent (15%) by volume;

(G) The licensee or any of its franchisees licensed under this subdivision (17) or a restaurant located on the premises of a food hall may store beer and alcoholic beverages in one (1) or more central storage locations in the food hall; provided, that if the restaurant, franchisee, and food hall share the same storage area, the restaurant's inventory of beer and alcoholic beverages must be stored in a separately locked cage or other storage area. Notwithstanding any other provision in this chapter, the licensee, franchisee, or restaurant may transport beer and alcoholic beverages anywhere in the food hall;

(H) Notwithstanding chapter 5 of this title to the contrary, the premises of a facility licensed under this subdivision (17) means for beer permitting purposes any or all of the premises that constitutes the food hall, except any other permitted premises located in the food hall. The permittee may operate multiple points of sale with different business names within the facility, which may be contiguous or noncontiguous. The permittee shall designate the points of sale to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the permittee filing a new drawing. The entire designated premises is covered under one (1) beer permit issued under chapter 5 of this title. The permittee may grant a franchise for the sale of beer on its premises, and the holder of the franchise is not required to obtain its own beer permit; provided, that the franchisee's premises qualify as an additional point of sale under this subdivision (17). For enforcement purposes, the local beer board shall treat each point of sale in the facility separately for violations of chapter 5 of this title and local beer ordinances. The local beer board shall not cite a point of sale for violations committed by another point of sale within a common licensed area. There is a rebuttable presumption of liability for a specific point of sale for an underage sale or other violation based on the specific type of container, brand of beer or wine, unlabeled or labeled cup or glassware, or logo on the cup or glassware provided to the person or minor. In the absence of a container, glass, or cup identifying the point of sale, the local beer board may determine which point of sale to cite for an underage sale or other violation. If the local beer board is unable to determine the violator after conducting a reasonable investigation, the local beer board may issue a citation to one (1) or more points of sale that share the common licensed area where the violation occurred;

(I) A licensee and franchisee licensed under this subdivision (17) may sell and distribute wine in an unsealed container for consumption on the licensed premises;

(J) The facility, landlord, tenant, or a licensee located in a food hall shall provide periodic security throughout the entire licensed premises; and

(K) A food hall licensee does not have to use labeled cups and glassware, but a franchise authorized under subdivision (17)(C) and a separately

licensed restaurant under subdivision (17)(D) must serve alcoholic beverages and beer in compliance with the requirements of § 57-4-101(p); provided, that a sticker identifying the franchisee or licensee, which is reasonably designed to stay affixed to a container, must comply with § 57-4-101(p);

(18)(A) "Historic inn" means a historic building that is located in a county having a population of not less than forty-four thousand five hundred (44,500) nor more than forty-five thousand (45,000), according to the 1990 federal census or any subsequent federal census, and has the following characteristics:

(i) Was built in 1824 and was formerly the oldest continuously operating inn in Tennessee;

(ii) Was once visited by United States Presidents Andrew Jackson, Andrew Johnson and James K. Polk, all of whom stayed and dined there; and

(iii) Has a dining facility and a total of nine (9) rooms and suites;

(B) "Historic inn" also means a country inn that is located in any county having a population of not less than seventy-one thousand one hundred (71,100) nor more than seventy-one thousand two hundred (71,200), according to the 2000 federal census or any subsequent federal census, and has the following characteristics:

(i) Has been in operation since 1938;

(ii) Is located within one-half (½) mile of the Great Smoky Mountains National Park;

(iii) Has a total of twenty-four (24) guest rooms and a dining facility offering fine dining to guests and other patrons with a seating capacity of no more than sixty (60); and

(iv) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(C) "Historic inn" also means an inn that has all of the following characteristics:

(i) Contains at least ten (10) transient guest rooms in the main house;

(ii) Has a separate meeting lodge and facility that also houses at least four (4) transient suites;

(iii) Has at least two (2) kitchens on the premises and offers at least two (2) meals daily;

(iv) Has an open-air, outdoor, sylvan chapel suitable for the accommodation of wedding ceremonies;

(v) Provides entertainment in the form of cooking demonstrations, storytelling and dulcimer playing;

(vi) Is listed in Distinguished Inns of North America, 16th Edition, by Select Registry;

(vii) Is located in any county having a population of not less than one hundred five thousand eight hundred (105,800) nor more than one hundred five thousand nine hundred (105,900), according to the 2000 federal census or any subsequent federal census; and

(viii) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin;

(19)(A) "Historic interpretive center" means a facility possessing each of the following characteristics:

(i) The center is located in an historic area of town where structures listed on the national register of historic places are located;

(ii) The center operates as a not-for-profit corporation that is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member or officer, agent or employee of any historic interpretive center shall be paid, or directly or indirectly receive, in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed by its governing body for the reasonable performance of the assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation and maintenance of the historic interpretive center, and in furtherance of the purposes of the organization. Alcoholic beverages may be consumed inside the center at locations designated by the board of the not-for-profit corporation;

(iii) The center provides facilities for programs of cultural, civic, and educational interest, including, but not limited to, musical concerts, films, receptions, exhibitions, seminars or meetings; and

(iv) The center is located in any county having a population of not less than seven hundred thousand (700,000), according to the 1980 federal census or any subsequent federal census;

(B) "Historic interpretive center" also means a commercially operated facility owned by a not-for-profit organization possessing each of the following characteristics:

(i) Is located on the Cumberland Plateau, within one (1) mile of a national river and recreation area;

(ii) Offers historic interpretation of Victorian-era British architecture, lifestyle, and settlement on the Cumberland Plateau in the 1880s and thereafter;

(iii) Operates public education programs in multiple historic buildings built from 1880 to 1884, including the oldest unchanged and preserved public library in America;

(iv) Preserves the historic character of a British settlement on the Cumberland Plateau in the 1880s through a board of directors engaged in land acquisition and management, design review of new construction and renovation, and the public enjoyment of period crafts, music, and folklife through the organization of festivals, support for local artists through the sale of arts and crafts in a commissary;

(v) Owns, sells, and develops home sites for construction of design-approved homes;

(vi) Offers overnight accommodations to visitors in historic inn and cottage settings;

(vii) Operates a restaurant serving breakfast, lunch, and dinner to visitors, community residents, guests, and members of the public;

(viii) Attracts thousands of visitors annually from around the world;

(ix) Does not discriminate against any patron on the basis of age,

gender, race, religion, or national origin; and

(x) Is located within any county having a population of not less than nineteen thousand five hundred (19,500) nor more than nineteen thousand seven hundred seventy five (19,775), according to the 2000 federal census or any subsequent federal census;

(C) "Historic interpretive center" also means a facility possessing each of the following characteristics:

(i) Was founded in 1983;

(ii) Is located on Martin Luther King Boulevard;

(iii) Provides programs of historical, cultural, civic, and educational interest, including, but not limited to, art exhibitions and musical concerts;

(iv) Is owned by a municipal or county government;

(v) Alcoholic beverages shall only be sold at the center before or during performances; and

(vi) Is located in any county having a population of not less than three hundred thirty-six thousand four hundred (336,400) nor more than three hundred thirty-six thousand five hundred (336,500), according to the 2010 federal census or any subsequent federal census;

(D) "Historic interpretive center" also means a facility that:

(i) Is owned by a municipality;

(ii) Is leased to an international storytelling center that is registered as a nonprofit 501(c)(3) organization;

(iii) Has a theater that contains not less than ninety (90) seats;

(iv) Contains two (2) rooms with not less than one hundred (100) seats in each room;

(v) Is located in a municipality having a population of not less than five thousand fifty (5,050) nor more than five thousand fifty-nine (5,059), according to the 2010 federal census or any subsequent federal census; and

(vi) Is located in a county having a population of not less than one hundred twenty-two thousand nine hundred (122,900) nor more than one hundred twenty-three thousand (123,000), according to the 2010 federal census or any subsequent federal census;

(20) "Historic mansion house site" means the buildings and grounds of a historic mansion house, located in any county having a metropolitan form of government, included in the Tennessee register of historic places, and operated by the Association for the Preservation of Tennessee Antiquities, and including Association for the Preservation of Tennessee Antiquities sites owned by this state. "Historic mansion house site" also means the buildings and grounds of an historic mansion house located in any county having a metropolitan form of government which has been conveyed by this state in trust to a board of trustees created and appointed in accordance with §§ 4-13-103 and 4-13-104, and for admission to which reasonable fees are charged as provided in § 4-13-105. This subdivision (20) shall apply only to counties having a population of four hundred fifty thousand (450,000) or greater, according to the 1980 federal census or any subsequent census;

(21)(A) "Historic performing arts center" means a facility possessing each

of the following characteristics:

(i) The center is located in a restored theater that is at least fifty (50) years old and listed on the national register of historic places;

(ii) The center is operated by a for-profit corporation, or not-for-profit corporation which is exempt from taxation under Section 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member or officer, agent or employee of any historic performing arts center shall be paid, or directly or indirectly receive, in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed by its governing body for the reasonable performance of their assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation and maintenance of the historic performing arts center, and in furtherance of the purposes of the organization. All profits from the sale of alcoholic beverages by a for-profit corporation shall be used for the operation, renovation, refurbishing, and maintenance of the center;

(iii) The center provides facilities for programs of cultural, civic, and educational interest, including, but not limited to, stage plays, musical concerts, films, dance performances, receptions, exhibitions, seminars or meetings; and

(iv) The center is located in any county having a population of:

| not less than | nor more than |
|---|---|
| 143,900 | 144,000 |
| 300,000 | 400,000 |
| 700,000 | |

according to the 1980 federal census or any subsequent federal census;

(B) "Historic performing arts center" also means a facility possessing each of the following characteristics:

(i) The center is located in a restored theater or music hall that is at least fifty (50) years old and listed on the national register of historic places;

(ii) The center is operated by a for-profit organization, or a not-for-profit organization that is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, and where no member, officer, agent or employee of the not-for-profit organization receives any incentive compensation relating directly to the sale of alcoholic beverages beyond the amount of such salary and other compensation as may be fixed by the not-for-profit organization's governing body for the reasonable performance of such member's, officer's, agent's or employee's assigned duties. A portion of the profits from the sale of alcoholic beverages at the center shall be used for the operation, renovation, refurbishing or general maintenance of the center. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The entire designated premises is

covered under one (1) license issued under this subdivision (21)(B). Alcoholic beverages and beer may be stored, sold, and consumed in any interior area on the premises, and in any contiguous or non-contiguous exterior area on the premises designated by temporary or permanent barriers and signage. The licensee must adhere to the following license fee schedule relative to on-premise consumption of alcoholic beverages:

*(a)* The licensee must pay the appropriate license fee assessed for historic performing arts centers under § 57-4-301(b)(1)(D); and

*(b)* The premises of a facility licensed under this subdivision (21)(B) that maintains a restaurant that is physically separate from the music hall, with its own kitchen, menu of prepared food, and patron seating, must also pay the appropriate restaurant license fee pursuant to § 57-4-301(b)(1)(R) to serve alcoholic beverages; provided, however, that such facility applying for a renewal of its license under this subdivision (21)(B) must pay the appropriate license fee due under § 57-4-301(b)(1)(W) when the gross revenue from the previous year derived from prepared food sales is fifty percent (50%) or less than the gross revenue from the sale of alcoholic beverages;

(iii) The center provides facilities for programs of cultural, civic, and educational interest, including, but not limited to, stage plays, musical concerts, films, dance performances, receptions, exhibitions, seminars or meetings;

(iv) The center is located in any county having a population in excess of five hundred thousand (500,000), which has a metropolitan form of government;

(v) The center was originally constructed in 1892 as a religious facility;

(vi) The center is approximately one thousand two hundred fifty feet (1,250') southwest of a public park that is adjacent to a navigable waterway; and

(vii) The center is approximately seven hundred twenty-five feet (725') northwest of a public park that contains a walkway recognizing professionals in the music industry;

(C) "Historic performing arts center" also means a facility possessing each of the following characteristics:

(i) Was opened in 1921;

(ii) Is on the national register of historic places;

(iii) Is located on Broad Street;

(iv) Provides programs of cultural, civic, and educational interest, including, but not limited to, operas and musical concerts;

(v) Is owned by a municipal or county government, or nonprofit, tax exempt, charitable organization. Alcoholic beverages shall only be sold at the center before, during or after performances; and

(vi) Is located in any county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census;

(D) "Historic performing arts center" also means a facility possessing

each of the following characteristics:

(i) Was opened in 1924;

(ii) Was originally designed as a municipal auditorium and all-purpose exhibition hall;

(iii) Is located on McCallie Avenue;

(iv) Is owned by a municipal or county government, or nonprofit, tax exempt, charitable organization. Alcoholic beverages shall only be sold at the center before, during or after performances;

(v) Provides programs of cultural, civic, and educational interest, including, but not limited to, stage plays and musical concerts; and

(vi) Is located in any county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census;

(E) "Historic performing arts center" also means a facility possessing each of the following characteristics:

(i) Is on the national register of historic places;

(ii) Was built in 1937;

(iii) Is located on Main Street;

(iv) Is an entertainment venue for live performances, movies and other events. Alcoholic beverages shall only be sold at the center before, during or after the performances, movies or other events; and

(v) Is located in any county having a population of not less than one hundred twenty-six thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census;

(F) "Historic performing arts center" also means a facility possessing each of the following characteristics:

(i) Was built in 1931;

(ii) Is on the national register of historic places;

(iii) Is maintained by a not-for-profit corporation which is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended;

(iv) Has an auditorium that seats more than seven hundred fifty (750) people;

(v) Provides programs of cultural, civic, and educational interest, including, but not limited to, stage plays and musical concerts; and

(vi) Is located in any county having a population of not less than one hundred fifty-three thousand (153,000) nor more than one hundred fifty-three thousand one hundred (153,100), according to the 2000 federal census or any subsequent federal census;

(G) "Historic performing arts center" also means a facility possessing each of the following characteristics:

(i) The center:

*(a)* Is located adjacent to a restored theater that is at least fifty (50) years old and listed on the national register of historic places; and

*(b)* Shares a plaza with such restored theater;

(ii) The center is operated by a for-profit corporation, or not-for-profit corporation which is exempt from taxation under § 501(c) of the

Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member or officer, agent or employee of any historic performing arts center shall be paid, or directly or indirectly receive, in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed by its governing body for the reasonable performance of their assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation and maintenance of the historic performing arts center, and in furtherance of the purposes of the organization. All profits from the sale of alcoholic beverages by a for-profit corporation shall be used for the operation, renovation, refurbishing, and maintenance of the center. Alcoholic beverages may be sold before, during, and after events or during intermissions in such events;

(iii) The center provides facilities for programs of cultural, civic, and educational interest to further the mission of the for-profit or not-for-profit corporation, including, but not limited to, stage plays, musical concerts, films, dance performances, receptions, exhibitions, seminars, or meetings; and

(iv) The center is located in a county having a population of more than nine hundred thousand (900,000), according to the 2010 federal census or any subsequent federal census;

(H)(i) "Historic performing arts center" also means a facility that:

*(a)* Is operated by a not-for-profit corporation that is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member, officer, agent, or employee of the center is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond the amount of the salary as may be fixed by its governing body for the reasonable performance of the person's assigned duties. All profits from the sale of alcoholic beverages by the not-for-profit corporation must be used for the operation, renovation, refurbishing, and maintenance of the center, and in furtherance of the purposes of the organization. Alcoholic beverages may be sold before, during, and after performances and events, and may be consumed inside any auditorium or performance hall within the center;

*(b)* Executes contracts with professional actors for performances;

*(c)* Hosts a film series of classic films and new releases;

*(d)* Operates a school of the arts educational program;

*(e)* Rents out the facilities to third parties as a venue for performing arts, civic and cultural groups, weddings, and similar events; and

*(f)* Is located in a city with a population of not less than one hundred thirty-two thousand nine hundred twenty (132,920) and not more than one hundred thirty-two thousand nine hundred twenty-nine (132,929), according to the 2010 or any subsequent federal census;

(ii) The premises of a center licensed under this subdivision (21)(H) means any or all of the property that constitutes the center. The licensee shall designate the premises to be licensed by the commission by filing

a drawing of the premises, which may be amended by the licensee filing a new drawing, including for purposes of relocating the center to a new facility. The designated premises may only include property owned or leased by the center and that is contiguous to the property of the center that is defined in this subdivision (21)(H). The entire designated premises is covered under one (1) license issued under this subdivision (21)(H); and

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of a center licensed under this subdivision (21)(H) means, for beer permitting purposes, any or all of the property that constitutes the center. The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing, including for purposes of relocating the center to a new facility. The entire designated premises is covered under one (1) beer permit issued under chapter 5 of this title;

(I) "Historic performing arts center" also means a facility that:

(i) Is owned and operated by a municipality;

(ii) Serves as a comprehensive art center with classes, art shows, and performances;

(iii) Seats not less than two hundred (200) persons on a flat floor;

(iv) Is located in a municipality having a population of not less than five thousand fifty (5,050) nor more than five thousand fifty-nine (5,059), according to the 2010 federal census or any subsequent federal census; and

(v) Is located in a county having a population of not less than one hundred twenty-two thousand nine hundred (122,900) nor more than one hundred twenty-three thousand (123,000), according to the 2010 federal census or any subsequent federal census;

(J) "Historic performing arts center" also means a facility that:

(i) Is owned by a municipality;

(ii) Has an auditorium that contains not less than two hundred fifty (250) seats;

(iii) Serves as an information source for visitors;

(iv) Is located in the municipality's historic district;

(v) Is located in a municipality having a population of not less than five thousand fifty (5,050) nor more than five thousand fifty-nine (5,059), according to the 2010 federal census or any subsequent federal census; and

(vi) Is located in a county having a population of not less than one hundred twenty-two thousand nine hundred (122,900) nor more than one hundred twenty-three thousand (123,000), according to the 2010 federal census or any subsequent federal census;

(22)(A) "Hotel" (Motel) means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent, or residential, in which twenty (20) or more rooms are used for the

sleeping accommodations of such guests and having one (1) or more public dining rooms, with adequate and sanitary kitchen and a seating capacity of at least fifty (50) at tables, where meals are regularly served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out herein for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a restaurant on their premises and the holder of such franchise shall be included in the definition of "hotel" hereunder; and property contiguous to a hotel, except property located in any county having a population of not less than seventy-seven thousand seven hundred fifty (77,750) nor more than seventy-seven thousand seven hundred ninety (77,790), according to the 1980 federal census or any subsequent federal census, which is owned by the same entity as the hotel and operated by the same entity as the hotel, which property either serves travelers and guests other than as a separate commercial establishment or is operated as a major entertainment complex serving in excess of one million (1,000,000) persons per year;

(B) "Hotel" also means and includes all entities previously described wherein sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which thirty (30) or more suites are used for sleeping accommodations of such guests and having eating facilities in each room for four (4) or more persons with an adequate and sanitary central kitchen from which meals are regularly prepared and served to guests in such suites. For the purpose of this section, "suite" is defined as a guest facility within a hotel where living, sleeping and dining are regularly provided for such guests within the individual units provided for guests. No such hotel or suite as defined in this subdivision (22)(B) shall be authorized to charge for, inhibit or otherwise interfere in any way with the rights of its guests or tenants to carry into rooms or suites rented by them their own bottles, packages or other containers of alcoholic beverages and/or to use or serve them to themselves, their own visitors or guests within the individual units rented or leased by them;

(C) "Hotel" also includes facilities owned and operated by an individual or event-management organization which plans and coordinates all phases of any function for retreats by groups of persons having similar backgrounds or purposes, and which offers meeting and banquet facilities, dining services, recreation and leisure activities in facilities which include a dining inn with seating capacity of three hundred (300), and a complex which includes meeting and banquet facilities with a seating capacity of two hundred (200), overnight accommodations for at least forty (40), and a fifty (50) acre tract of land with picnic accommodations for at least four thousand (4,000), and a facility with seating capacity of four hundred (400). The scope of any license authorized by this subdivision (22)(C) includes picnic service on the grounds of the complex owned and operated by the licensee;

(D) "Hotel" also includes a residence hotel located in the central business district of any municipality having a population of more than three hundred thousand (300,000), according to the 1990 federal census or any subsequent federal census and having a common smoking room and lobby area;

(E)(i) "Hotel" also includes a bed and breakfast establishment as defined in § 68-14-502, where meals are regularly served to guests and where sleeping accommodations and dining facilities being conducted in the same buildings or structures used in connection therewith are on the same premises and are part of the hotel operation. The premises upon which such establishment is located shall be within the boundaries of a clearly defined arts district which is owned and operated by the same entity and having a common courtyard which is contiguous to all buildings and structures on the premises. The dining facilities, including beverages, may be served from an adequate and sanitary central kitchen and storage facility;

(ii) This subdivision (22)(E) applies in any municipality having a population in excess of one hundred fifty thousand (150,000), according to the 1990 federal census or any subsequent federal census;

(F)(i) "Hotel" also includes a bed and breakfast establishment as defined in § 68-14-502, where meals are regularly served to guests and where sleeping accommodations and dining facilities being conducted in the same buildings or structures used in connection therewith are on the same premises and are part of the hotel operation. In such establishment there must be two (2) rooms for sleeping accommodations and a seating capacity of twenty-five (25) people at tables. The premises upon which such establishment is located shall have a business conference center;

(ii) Subdivision (22)(F)(i) applies in any county having a population of not less than eight hundred thousand (800,000), according to the 1990 federal census or any subsequent federal census;

(iii) "Hotel" also includes a facility located in a county which contains a population of not less than eighty-five thousand nine hundred (85,900) nor more than eighty-six thousand one hundred sixty (86,160), according to the 1990 federal census or any subsequent census, which facility contains the following characteristics:

*(a)* Contains at least forty (40) rooms for guest sleeping accommodations offered for adequate pay to travelers and guests;

*(b)* Contains at least three (3) separate dining rooms with adequate sanitary kitchen facilities, either common or separate, where meals are regularly served to guests;

*(c)* Is located on real property of at least one thousand fifty (1,050) acres, notwithstanding that such real property is not contiguous and may be divided by a public or private road;

*(d)* Contains a swimming pool, hiking trails, and biking trails for use by registered guests;

*(e)* Has access to the Double Branch Creek and tributaries, notwithstanding that such creek and tributaries are not contiguous and

may be divided by a public or private road;

*(f)* Has at least two thousand seven hundred sixteen (2,716) acres of land that has been placed in conservation easement;

*(g)* Provides a full service spa for use by registered guests of the facility;

*(h)* Any such hotel whose facilities are located on the premises of an area meeting the definition of a hotel under this subdivision (22)(F)(iii) may exercise the privileges authorized under this chapter anywhere within that area, and, in addition, may exercise the privilege authorized under this chapter on any location identified to the commission and held out to the public as part of such hotel property irrespective of the actual owner of the location, where the hotel is authorized by written contract or lease to provide hotel or resort services by the owner of such location; and

*(i)* Notwithstanding this title or any rule to the contrary, a hotel under this subdivision (22)(F)(iii) shall be able to:

*(1)* Hold a manufacturer's license under § 57-3-202 or a non-manufacturer nonresident seller's permit under § 57-3-602(c) or both, and such license or permit may be for facilities on or off the hotel premises;

*(2)* Offer tastings, with or without charge, and sell sealed bottles in a tasting room or a gift shop on the hotel premises of product manufactured pursuant to the license or permit in subdivision (22)(F)(iii)(*i*)(*1*), as long as such tastings and sealed bottles are offered only to guests of the hotel, as defined in this section, and private owners of homes on the hotel property and are not offered anywhere except in the tasting room and the gift shops;

*(3)* Sell beer and alcoholic beverages by the drink for on-premises consumption anywhere on the hotel premises, except for the tasting room and the gift shops; and

*(4)* Only sell at retail or provide samples of product that it has obtained from a wholesaler licensed under § 57-3-203, and such wholesaler shall remit all taxes imposed under §§ 57-3-302 and 57-3-501, which shall be collected from the hotel based upon its retail sales, and § 57-6-201. For products acquired from a wholesaler by a hotel under this subdivision (22)(F)(iii) that are manufactured by the hotel, the wholesaler may permit the hotel to deliver its products to the location on its premises where such retail sales and samples will be effected, provided the wholesaler permitting such direct shipment must include the amounts delivered in its inventory and depletions for purposes of tax collections;

*(j)* A hotel under this subdivision (22)(F)(iii) must comply with all the requirements of this chapter and shall be subject to the restrictions imposed upon licenses other than § 57-4-103;

(G)(i) "Hotel" also includes a facility that possesses the following characteristics:

*(a)* Was built in 1917;

*(b)* Is listed on the National Register of Historic Places;

*(c)* Has at least twelve (12) rooms for guest sleeping accommodations with at least one (1) room being handicap accessible;

*(d)* Has a dining area that seats at least one hundred sixty (160) people;

*(e)* Has a music and entertainment venue that is at least two thousand nine hundred square feet (2,900 sq. ft.);

*(f)* Has a two-acre meadow suitable for wedding ceremonies and other events; and

*(g)* Is located in any county having a population of not less than thirty-seven thousand five hundred (37,500) nor more than thirty-seven thousand six hundred (37,600), according to the 2000 federal census or any subsequent federal census.

(ii) A hotel under this subdivision (22)(G) must comply with all the requirements of this chapter and shall be subject to the restrictions imposed upon licenses other than § 57-4-103;

(H)(i) "Hotel" also means a facility that possesses all of the following characteristics:

*(a)* Offers to the public:

*(1)* At least thirty (30) rooms for the sleeping accommodations of guests for adequate pay; and

*(2)* A dining room;

*(b)* Is owned by and located on the campus of a private institution of higher education located on at least ten thousand (10,000) acres; and

*(c)* Is located in any county having a population of not less than thirty-nine thousand two hundred (39,200) nor more than thirty-nine thousand three hundred (39,300), according to the 2000 federal census or any subsequent federal census;

(ii) A hotel under this subdivision (22)(H) must comply with all the requirements of this chapter and shall be subject to the restrictions imposed upon licenses other than § 57-4-103;

(I)(i) "Hotel" also includes a facility that possesses the following characteristics:

*(a)* Is located in a building on which construction began prior to 1940;

*(b)* Is located approximately twenty-two (22) miles south of Interstate 40 on U.S. Highway 412;

*(c)* Is fronted on the north side by U.S. Highway 412 and is less than one (1) mile from a scenic river as defined in title 11, chapter 13;

*(d)* Has at least twelve (12) rooms for guest sleeping accommodations;

*(e)* Has a separate room for conferences or meetings;

*(f)* Has at least a forty-seat dining area that has been approved by the local health department and that serves meals at least four (4) days a week, with exceptions of closures for private groups or events, seasonal closures, vacations, and periods of general maintenance or remodeling by the owners;

*(g)* Does not discriminate against any patron on the basis of age,

gender, race, religion, or national origin; and

*(h)* Is located in any county having a population of not less than seven thousand nine hundred one (7,901) nor more than eight thousand (8,000), according to the 2010 federal census or any subsequent federal census;

(ii) A hotel under this subdivision (22)(I) must comply with all the requirements of this chapter and shall be subject to the restrictions imposed upon licenses other than § 57-4-103;

(23) "Limited service restaurant" means a facility possessing each of the following characteristics:

(A) Is a public place which has a seating capacity for at least forty (40) patrons and that is kept, used, maintained, advertised and held out to the public as a place where during regular hours of operation:

(i) Alcoholic beverages, beer or wine are served to patrons;

(ii) A menu of prepared food is made available to patrons;

(iii) The gross revenue from the sale of prepared food is fifty percent (50%) or less than the gross revenue from the sale of alcoholic beverages; provided, however, that gross revenue of more than fifty percent (50%) from the sale of prepared food shall not prevent a facility from receiving a "limited service restaurant" license or subject such facility to a fine from the commission for having gross revenue of more than fifty percent (50%) from the sale of prepared food. For purposes of determining the gross revenue from the sale of prepared food, chips, popcorn, pretzels, peanuts and similar snack items shall not be included in gross revenue from the sale of prepared food sold;

(iv) The facility affirmatively establishes, to the satisfaction of the commission, that it has complied and will comply with the requirements of § 57-4-204;

(v) The facility provides adequate security during the regular hours of operation; and

(vi) Sleeping accommodations are not provided;

(B) Is located within the jurisdictional boundaries of a political subdivision which has authorized the sale of alcoholic beverages for consumption on the premises as provided in § 57-4-103; and

(C) Is located in an area which is properly zoned for facilities authorized to sell alcoholic beverages for consumption on the premises;

(24)(A) "Motor speedway" means a motor sports facility that possesses the following characteristics:

(i) Is located in a county having a population of not less than sixty-seven thousand six hundred (67,600) nor more than sixty-seven thousand nine hundred (67,900), according to the 1990 federal census or any subsequent federal census, and at least one (1) municipality located in such county has adopted liquor by the drink;

(ii) Contains a 1.33 mile superspeedway;

(iii) Is situated on a site of at least five hundred (500) acres; and

(iv) Has a seating capacity of fifty thousand (50,000) with the capability to expand to one hundred fifty thousand (150,000) grandstand seats and one hundred (100) luxury skyboxes;

(B) "Motor speedway" also means a motor sports facility that possesses the following characteristics:

(i) Is located in a county having a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census;

(ii) Contains a three-quarter-mile oval track with a seating capacity of sixteen thousand (16,000) seats; and

(iii) Contains a one-quarter-mile drag strip with a seating capacity of fifteen thousand (15,000) seats;

(25)(A) "Museum" means a building or institution serving as a repository of natural, scientific or literary curiosities or works of art for public display and further possesses the following characteristics:

(i) The museum is at least fifty (50) years old; and

(ii) The museum is located in a county having a population in excess of seven hundred thousand (700,000), according to the 1980 federal census or any subsequent federal census;

(B) "Museum" also means an "art museum" which is a building or institution serving as a repository of works of art for public display and further possesses the following characteristics:

(i) The art museum is owned and operated by a bona fide charitable or nonprofit organization which has been in existence for at least twenty-five (25) years;

(ii) The art museum is located in a building which contains not less than fifty thousand square feet (50,000 sq. ft.); and

(iii) The art museum is located in a former world's fair site;

(C) "Museum" also means a building or institution serving as a repository or exhibition facility for works of art for public display and further possesses the following characteristics:

(i) The museum is owned and operated by a bona fide charitable or nonprofit organization;

(ii) The museum is located in a building which contains not less than one hundred thousand square feet (100,000 sq. ft.);

(iii) The museum is located in a building that previously served as a United States postal service facility; and

(iv) The museum is located in a municipality or county having a population in excess of five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census;

(D) "Museum" also means a building or institution serving as a tribute to soul music and which houses a music academy and further possesses the following characteristics:

(i) The museum and music academy is located on the original site of a recording studio; and

(ii) The museum and music academy is located in a county having a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census;

(E) "Museum" also means an "art museum" which is a building or institution serving as a repository of works of art for public display and further possesses the following characteristics:

(i) The art museum is owned and operated by a bona fide charitable or nonprofit organization;

(ii) The museum has been in existence for at least fifty (50) years;

(iii) The museum focuses on American art from the colonial period to the present day;

(iv) The museum is located in a historical mansion and a sleek contemporary building on the bluffs overlooking the Tennessee River;

(v) The museum does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vi) The museum is located in a county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census;

(F) "Museum" also means a building or institution dedicated to the public display, preservation, and promotion of fine metalwork and further possesses the following characteristics:

(i) The museum opened to the public in 1979;

(ii) The museum is located on at least three (3) acres overlooking the Mississippi River;

(iii) The museum features a fully operational blacksmith shop and sand-casting foundry;

(iv) The museum is owned and operated by a bona fide charitable or nonprofit organization; and

(v) The museum is located in a county having a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census;

(G) Means an institution:

(i) Dedicated to the life, achievements, and music of Glen Campbell;

(ii) That contains a production space and live event venue with a capacity of approximately one hundred eighty (180) patrons; a seating maximum of approximately one hundred (100) persons; a built-in sing-a-long booth; and a state-of-the-art lighting and sound system;

(iii) That contains a rooftop entertainment venue;

(iv) That contains customizable LED boards that are visible from the exterior of the building;

(v) That hosts private events and tours; and

(vi) That is located in a county with a metropolitan form of government and a population of more than five hundred thousand (500,000), according to the 2010 or any subsequent federal census;

(26)(A) "Paddlewheel steamboat company" means a company that operates one (1) or more paddlewheel steamboats for hire in interstate commerce upon navigable waterways and is licensed by the United States coast guard to carry not less than one hundred (100) passengers on a single vessel, with adequate facilities and equipment for serving regular meals, on regular schedules, or charter trips, while moving through or docked in any county of the state; provided, however, that no paddlewheel steamboat company licensed pursuant to this chapter shall sell any type of alcoholic beverage or beer while such paddlewheel steamboat is docked

within the boundaries of any local government which has not approved the sale of alcoholic beverages pursuant to § 57-4-103;

(B)(i) "Paddlewheel steamboat company" includes a paddlewheel steamboat company that possesses the following characteristics:

*(a)* Has its principal dock located on the Cumberland River at Pennington Bend;

*(b)* Is approximately two thousand five hundred feet (2,500′) southwest of a resort and convention center, which has indoor gardens, an indoor/outdoor water attraction, at least two thousand eight hundred (2,800) rooms, and six hundred forty thousand square feet (640,000′) of meeting space; and

*(c)* Is located in a county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any paddlewheel steamboat company licensed under this subdivision (26)(B) means any or all of the paddlewheel steamboat and the property at its principal dock. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The entire designated premises is covered under one (1) license issued under this subdivision (26)(B);

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (26)(B) means, for beer permitting purposes, any or all of the paddlewheel steamboat and the property at its principal dock. The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. The entire designated premises is covered under one (1) beer permit issued under chapter 5 of this title;

(iv) Any facility licensed under this subdivision (26)(B) may seek an additional license as a caterer under subdivision (6);

(v) Any facility licensed under this subdivision (26)(B) may hold any of the licenses authorized under this subdivision (26)(B) and may grant a franchise to one (1) or more entities for any or all such licenses;

(27) "Passenger train" includes any passenger train operating in interstate commerce under a certificate of public convenience and necessity issued by the appropriate federal or state agency, with adequate facilities and equipment for serving passengers, on regular or special schedules, or charter trips, while moving through any county of the state, but not while any such passenger train is stopped in a county or municipality that has not legalized such sales;

(28) A "premier type tourist resort" means:

(A) A commercially operated recreational facility possessing each of the following characteristics:

(i) Ownership and operation by a profit type corporation having a capitalization of not less than ten million dollars ($10,000,000);

(ii) Situated in a geographical area wholly controlled by the operator of the facility and having not less than six thousand (6,000) acres of

contiguous land, not less than five thousand (5,000) acres of which is to be developed and maintained in accordance with sound ecological and environmental practices, such requirement to be subject at all times to the oversight and approval of the department of environment and conservation, which shall not less often than once a year make a written report thereof to the commission. Satisfactory compliance with this requirement and certification thereof by the department to the commission shall be a condition precedent to the issuance or renewal of the permit provided for in § 57-4-201;

(iii) Continuous maintenance of lodging accommodations consisting of not less than two hundred (200) hotel or motel rooms in a building or buildings designed for such purpose;

(iv) Continuous maintenance of facilities for the accommodation of conventions of not less than four hundred (400) persons;

(v) Maintenance within the recreational area of at least one (1) of the following types of sporting facilities:

*(a)* A golf course of at least eighteen (18) holes;

*(b)* A lake covering not less than one hundred (100) acres adapted for boating and fishing;

*(c)* A ski slope;

(vi) Maintenance, in addition to one (1) or more of the facilities enumerated in subdivision (28)(A)(v), of two (2) or more of the following types of recreational facilities:

*(a)* Area for camping;

*(b)* Tennis courts;

*(c)* Swimming pool;

*(d)* Trails for hiking and/or horseback riding;

*(e)* Equestrian center;

(vii) A twenty-four-hour per day security force approved as to adequacy by the commission;

(B) A hotel, motel or restaurant located within a municipality having a population of one thousand (1,000) or more persons, according to the federal census of 1970 or any subsequent federal census in which at least fifty percent (50%) of the assessed valuation (as shown by the tax assessment rolls or books of the municipality) of the real estate in the municipality consists of hotels, motels, and tourist courts accommodations, providing the voters of the municipality have heretofore by referendum pursuant to § 57-4-103, approved the sale of alcoholic beverages for consumption on the premises, and such referendum shall be authorized, notwithstanding the population requirements set forth in § 57-3-106. For purposes of implementation of this subdivision (28)(B), the sale of alcoholic beverages shall be limited to hotels, restaurants, and clubs as defined in this section. To ensure proper control and development of the tourist industry of such municipality, any applicant for a license under this subdivision (28)(B) shall first obtain approval from a majority of the legislative body of the municipality, which may adopt rules and regulations governing its procedure and setting forth limitations and restrictions including, but not limited to, the number and location of licensed estab-

lishments and requiring approval by the legislative body as to the good moral character of each applicant for a license;

(C)(i) A commercially operated recreational facility containing all of the following characteristics:

*(a)* Ownership and operation by a profit type corporation or partnership;

*(b)* Situated in a geographical area controlled by the operator of the facility, having not less than two thousand five hundred (2,500) acres of land;

*(c)* Continuous maintenance of lodging accommodations consisting of not less than one hundred (100) hotel or motel rooms in a building or buildings designed for such purpose;

*(d)* The maintenance of a ski slope with necessary lifts or tows for use during skiing season;

*(e)* Continuous maintenance of restaurant facilities for seating at tables of not less than two hundred (200) persons, with adequate kitchen facilities; and

*(f)* Located within a municipality with a population of not less than one thousand fifty (1,050) nor more than one thousand seventy-five (1,075), according to the 1980 or any subsequent census;

(ii) To ensure proper control and development of the tourist industry of such municipality, any applicant for a license under this subdivision (28)(C) shall first obtain approval from a majority of the legislative body of the municipality, which may adopt rules and regulations governing its procedure and setting forth limitations and restrictions including, but not limited to, the number and location of licensed establishments and requiring approval by the legislative body as to the good moral character of each applicant for a license;

(D) A commercially operated facility possessing each of the following characteristics:

(i) Situated in a geographical area controlled by the operator of the facility, having not less than one hundred seventy-nine (179) acres of land;

(ii) A public golf course of at least eighteen (18) holes with a practice green and irrigation system;

(iii) Such facility has a club house with at least five thousand square feet (5,000 sq. ft.) that can accommodate up to two hundred fifty (250) guests for events;

(iv) Has separate meeting rooms for multiple events;

(v) Has a cart barn on the property that holds no less than sixty (60) golf carts;

(vi) Such facility has a maintenance shop with at least seven thousand square feet (7,000 sq. ft.);

(vii) Is located inside of:

*(a)* A black bear habitat community; and

*(b)* A conservation community;

(viii) Surrounded by over one hundred (100) rental cabins;

(ix) At least fifty percent (50%) of the property boundaries border a

national park;

(x) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(xi) Is located in any county having a population of not less than one hundred twenty-three thousand one (123,001) nor more than one hundred twenty-three thousand one hundred (123,100) according to the 2010 federal census or any subsequent federal census;

(E) A commercially operated recreational facility containing all of the following characteristics:

(i) Ownership and operation by a for-profit corporation or partnership;

(ii) Located in a geographic area managed by the operator of the facility, containing a minimum area of one hundred fifty (150) contiguous acres;

(iii) Continuous maintenance of lodging accommodations of not less than fifty (50) rooms available for guests, tourists or for business meetings located in a building or buildings designed for accommodations or business meetings;

(iv) Maintenance of lakeside marina facilities, a golf course of not less than eighteen (18) holes, and riding trails and stables on the premises;

(v) Located within a municipality with a population of not less than six thousand three hundred seventy-five (6,375) nor more than six thousand four hundred (6,400), according to the 1980 or any subsequent federal census; and

(vi) Whose manager shall have been specifically approved by a majority of the legislative body of the municipality in which such licensee is located as being an individual of good moral character;

(F) A facility, whether open to the public or limited to members and guests of the development on which it is located, owned or operated, pursuant to a license by a homeowners or residential association, which facility is kept, used and maintained as a place where meals are served and where meals are actually and regularly served, with adequate and sanitary kitchen facilities and which facility meets all of the following characteristics:

(i) The facility must be located in a county having a population of not less than forty-seven thousand (47,000) nor more than forty-seven thousand five hundred (47,500), according to the 1990 federal census or any subsequent federal census;

(ii) The facility must be located on the premises of a planned, gated residential development of at least eighty (80) acres with at least nine thousand (9,000) lineal feet of water frontage on an established and designated navigable waterway; and

(iii) The facility must be located within the limits of a development which contains a marina and tennis court facilities;

(G) A club, either for profit or not for profit, which has been in existence for two (2) consecutive years during which time it has maintained a membership of at least three thousand (3,000) members and which maintains club facilities on or adjacent to property offering recreational services available to its members, which services shall include one (1) or

more of the following:

(i) Golf course with at least eighteen (18) holes;

(ii) Tennis courts;

(iii) Marina facilities with a minimum of four hundred (400) slips.

Any such club whose club facilities are located on the premises of an area meeting the definition of a "premier type tourist resort" under this section may exercise its privileges authorized under this chapter anywhere within such area;

(H) A commercially operated recreational facility, whether open to the public or limited to members and guests of an association or of the development on which it is located, owned and operated by an association or corporation and in connection with an eighteen-hole golf course, which facility is kept, used and maintained as a place where meals are actually and regularly served, with adequate and sanitary kitchen facilities, and which facility meets all of the following characteristics:

(i) The facility must be located in a county having a population of not less than thirty-four thousand seven hundred thirty (34,730) nor more than thirty-four thousand seven hundred sixty (34,760), according to the 1990 federal census or any subsequent federal census;

(ii) The facility must be located in a development containing no less than four hundred twenty (420) acres and no more than four hundred fifty (450) acres;

(iii) The facility must be located within limits of a development which contains an eighteen-hole golf course;

(iv) The facility must have no less than five thousand (5,000) enclosed square feet (5,000 sq. ft.);

(v) The facility must be located no less than one-half (½) mile from the right-of-way of an interstate highway; and

(vi) The facility must be located within the limits of a development which contains a lake of not less than twenty-eight (28) acres which is entirely within the limits of the development;

(I) A commercially operated recreational facility possessing each of the following characteristics:

(i)*(a)* Ownership and development by a for profit corporation;

*(b)* Situated in a geographic area controlled by such entity and having not less than twenty-five (25) contiguous acres of land which is divided by a four-lane highway;

*(c)* Designed to contain picnic facilities, museum buildings, retail sales areas, retail food dispensing outlets, and restaurant areas;

*(d)* Maintenance of a limited access area containing a former residence, a swimming pool, a handball court, and stables where no pedestrian access is allowed and all guests entering must be carried by a motor vehicle; and

*(e)* Location within a county having a population of not less than seven hundred seventy thousand (770,000), according to the 1990 federal census or any subsequent federal census;

(ii) "Premier type tourist resort," as defined in this subdivision (28)(I), shall be authorized to sell or serve alcoholic beverages on the premises

of such resort only at special functions, wherein attendance is limited to invited guests or groups and not to the general public;

(J) An entity operating a commercial golf related recreational facility, whether open to the public or limited to members and guests of an association or owners and guests of a development upon or adjacent to which the facility is located, which entity or facility meets all of the following criteria:

(i) The facility is located in a county having a population of not less than thirty-four thousand seven hundred thirty (34,730) nor more than thirty-four thousand eight hundred (34,800), according to the 1990 federal census or any subsequent federal census;

(ii) The facility is operated in conjunction with an eighteen (18) hole golf course;

(iii) The facility is kept, used and maintained as a place where meals are actually and regularly served with such adequate and sanitary kitchen facilities as might be needed to meet the reasonable requirements of its patrons, members, or guests;

(iv) The entity does not discriminate or limit the use of the facilities solely on the basis of race, creed, sex, or national origin, and has provided to the commission a written certification of its policy;

(v) Such facility has enclosed clubhouse space of at least five thousand square feet (5,000 sq. ft.);

(vi) Such facility is located no less than seven (7) miles and no more than eight (8) miles from an interchange of an interstate highway; and

(vii) Such facility is located on a geographic area, owned or operated by the entity, which area contains not less than one hundred fifty-five (155) acres nor more than one hundred seventy (170) acres;

(K) A commercially operated recreational facility whether open to the public or limited to members and guests of an association or of the development on which it is located, owned and operated by an association or corporation and in connection with an eighteen-hole golf course, which facility is regularly kept, used and maintained as a place where meals are actually and regularly served, with adequate and sanitary kitchen facilities, and which facility meets all the following characteristics:

(i) The facility must be located in or adjacent to a real estate development containing no less than one thousand one hundred (1,100) acres and no more than two thousand (2,000) acres;

(ii) The facility must have no less than nine thousand (9,000) enclosed square feet;

(iii) The facility must be located within the limits of a development which is contiguous to a water reservoir operated and maintained by the United States army corps of engineers during 1998 or any subsequent years; and

(iv) Maintenance within the recreational area of the following types of recreational facilities:

*(a)* Golf course of at least eighteen (18) holes;

*(b)* Swimming pool;

*(c)* Tennis court; and

*(d)* Walking trails;

(L) A resort containing all of the following characteristics:

(i) Has a restaurant, with a current overall seating capacity of two hundred eighty (280), including outside dining service, and which serves over seventy-five thousand (75,000) patrons per year;

(ii) Is located immediately adjacent to the Cherokee National Forest, the only national forest in Tennessee and the Cherohala Skyway, one of only twenty (20) highways in the country designated as a national scenic byway;

(iii) Is located along the scenic Tellico River, a tributary of the Little Tennessee River;

(iv) Currently operates nine (9) cabins, a river walk, and an open-air chapel and pavilion;

(v) After a proposed expansion will include at least thirty (30) cottages, a full-service health and wellness spa, a championship golf course, racquet club, adventure club for canoeing, kayaking, hiking, biking and other outdoor activities, an equestrian club, conference facilities, a hunt and fish club, crafts and education, and history tours; and

(vi) Is located within a county having a population of not less than thirty-eight thousand nine hundred (38,900) nor greater than thirty-nine thousand (39,000), according to the 2000 federal census or any subsequent federal census;

(M) A commercially or privately operated recreational facility containing all of the following characteristics:

(i) The facility is located within a platted housing subdivision of not less than four hundred (400) acres nor greater than five hundred twenty-five (525) acres;

(ii) The facility is located on or adjacent to an eighteen-hole golf course located within the development;

(iii) The facility is located within a development that operates a recreational swimming pool of at least sixty thousand gallons (60,000 gals.);

(iv) The facility operates and maintains tennis courts for use by homeowners, visitors, tourists, or guests;

(v) The facility operates a clubhouse for the use of homeowners, visitors, tourists, or guests of at least five thousand total square feet (5,000 sq. ft.) and the clubhouse houses a restaurant with seating at tables for at least forty (40) people and such restaurant has adequate kitchen facilities;

(vi) The facility is located within a county with a population of not less than thirty-nine thousand fifty (39,050) nor more than thirty-nine thousand one hundred fifty (39,150), according to the 2000 federal census or any subsequent federal census; and

(vii) The facility shall have been providing some or all of the described recreational services for a continuous period of at least four (4) years at the time of licensing;

(N) A commercially operated recreational facility, located adjacent to a

navigational river which contains all of the following characteristics:

(i) Such facility has direct access to a navigable waterway;

(ii) Such facility contains a minimum of two hundred (200) slips for boats;

(iii) Such facility provides boat fuel, boat rental and repair;

(iv) Such facility is located upon or adjacent to a public park or preserve, which park is at least one hundred (100) acres in size, and which park contains a swimming pool, tennis courts and at least a nine (9) hole golf course; and

(v) Such facility is located within a county with a population of at least three hundred eighty thousand (380,000), according to the 2000 federal census or any subsequent federal census;

(O) An entity granted a franchise for the operation of a restaurant or food and beverage services on the premises of the premier type tourist resort, and for such purposes a premier type tourist resort shall have the privilege of granting such franchises;

(P) A commercially operated facility which contains all of the following characteristics:

(i) Such facility was licensed as a health club on December 31, 2015;

(ii) Such facility only allows members and their invited guests;

(iii) Such facility has two (2) swimming pools with one pool having at least fifteen thousand square feet (15,000 sq. ft.) of water surface;

(iv) Such facility provides volleyball courts, a basketball court and a recreation area with food service;

(v) Such facility is located within fifteen (15) miles of an airport;

(vi) Such facility does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vii) Such facility is located within a county having a population of not less than three hundred eighty-two thousand (382,000) nor more than three hundred eight-two thousand one hundred (382,100), according to the 2000 federal census or any subsequent federal census;

(Q) A commercially operated facility which contains all of the following characteristics:

(i) Such facility is located no more than three and one-half (3 ½) miles from the right of way of Interstate 40 and fronting on State Highway 92 and has a minimum of eight (8) acres of lake front property with a minimum of five thousand eight hundred feet (5,800′) of shore line;

(ii) Such facility has at least eighty (80) boat slips and forty-eight (48) dry slips, a boat launching ramp, a full service restaurant seating at least one hundred seventy-five (175) people inside with outside patio dining, a ships store offering boat supplies and gasoline, and an outdoor pavilion;

(iii) Such facility provides accommodations consisting of at least twenty (20) lakeside hotel/motel units in a building or buildings designed for such purposes;

(iv) Such facility is located within a county having a population of not less than forty-four thousand (44,000) nor more than forty-four thousand nine hundred (44,900), according to the 2000 federal census or any

subsequent federal census; and

(v) Such facility shall also include any commercial boat for charter that departs from any such facility if the boat is licensed by the United States Coast Guard to carry not less than fifty (50) passengers on a single vessel and has adequate facilities and equipment for serving regular meals, on regular schedules, or charter trips, while moving through or docked in any county of the state;

(R) A commercially operated facility which at a minimum contains all of the following characteristics:

(i) Such facility is located within one (1) mile of the right-of-way of Interstate 40 and in an area zoned by the municipality as B-3; and

(ii) Such facility is located within a county having a population of not less than forty-four thousand (44,000) nor more than forty-four thousand nine hundred (44,900), according to the 2000 federal census or any subsequent federal census;

(S) A commercially operated facility which contains all of the following characteristics:

(i) Such facility is located no more than one-half (½) mile from the right of way of Interstate 75 and accessible to State Highway 68;

(ii) Such facility has at least nine thousand square feet (9,000 sq. ft.) of conference space;

(iii) Such facility provides accommodations consisting of at least one hundred twenty-five (125) hotel or motel rooms in a building or buildings designed for such purposes;

(iv) Such facility provides recreational facilities including an indoor swimming pool;

(v) Such facility does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vi) Such facility is located within a county having a population of not less than thirty-eight thousand nine hundred (38,900) nor more than thirty-nine thousand (39,000), according to the 2000 federal census or any subsequent federal census;

(T) A nine-hundred-sixty-acre peninsula gated community located on a lake with ten (10) miles of shoreline, and which facility contains all of the following characteristics:

(i) Has an eighteen-hole golf course and tennis courts;

(ii) Has a club house, restaurant, lounge, fitness center, and swimming pool;

(iii) Maintains a community garden, community and neighborhood docks and a boat ramp;

(iv) Has an equestrian facility with extensive riding trails;

(v) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vi) Is located in two (2) counties one (1) county having a population of not less than thirty-eight thousand nine hundred (38,900) nor more than thirty-nine thousand (39,000) and the other county having a population of not less than thirty-nine thousand fifty (39,050), nor more than thirty-nine thousand one hundred fifty (39,150), both according to the 2000 federal census or any subsequent federal census;

(U) A facility which contains all the following characteristics:

(i) Has resort lodge condominiums, homes and vacation cottages;

(ii) Has an eighteen hole golf course and tennis courts with a pro shop;

(iii) Has a swimming pool;

(iv) Has rock climbing, hiking and biking trails;

(v) Has a full service spa;

(vi) Has banquet and dining services and a business service center;

(vii) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(viii) Is located in a county having a population of not less than thirty-nine thousand eight hundred (39,800) nor more than thirty nine thousand eight hundred seventy-five (39,875), according to the 2000 federal census or any subsequent federal census;

(V) It is lawful for any establishment located in a premier type tourist resort as defined in § 67-6-103(a)(3)(B)(iii) which is licensed to serve beer to also serve wine to be consumed on the premises, subject to the further provisions of this chapter other than § 57-4-103;

(W) It is lawful for any establishment located in a municipality which:

(i) Has an approved Tourist Development Zone as set forth in title 7, chapter 88;

(ii) Has a AA minor league baseball team; and

(iii) Is located in a county with an amusement park, a ski resort, and a national park,

which is licensed to serve beer to also serve wine to be consumed on the premises, subject to the further provisions of this chapter other than § 57-4-103;

(X) A commercially operated recreational facility, located adjacent to a navigable river, that has all of the following characteristics:

(i) Contains at least one hundred (100) boating slips available for lease, rental, or use by guests;

(ii) Has one (1) or more restaurant facilities with a combined seating capacity of at least two hundred (200);

(iii) Has a lodge with at least fifteen (15) units available for transient lodging; and

(iv) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin;

(Y) A commercially operated facility that has all of the following characteristics:

(i) Is located no more than six (6) miles from Interstate 40 at exit 427, and on both sides of a county highway known as Harrison Ferry Road. The facility contains a minimum of one hundred forty-three (143) acres, and includes a minimum of twenty-two (22) acres of land zoned commercial for future development at the corner of Back Nine Drive and Mountain View Lane;

(ii) Has an eighteen-hole golf course, two (2) practice putting greens, a practice chipping green and a practice area for golf instruction. The facility also contains a large swimming pool, a boat ramp into Douglas

Lake, and two (2) tennis courts;

(iii) Has a clubhouse with a fully-equipped pro shop, a full-service restaurant seating at least one hundred fifty (150) persons inside, with an outside patio that seats at least seventy (70) persons;

(iv) Provides accommodations, consisting of at least twelve (12) hotel/motel units and at least nine (9) villa units; and

(v) Is located within an incorporated municipality having a population of less than five hundred (500), according to the 2000 federal census or any subsequent federal census, within a county having a population of not less than forty-four thousand two hundred (44,200) nor more than forty-four thousand three hundred (44,300), according to the 2000 federal census or any subsequent federal census; and

(vi) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin;

(Z) An inn that has all of the following characteristics:

(i) Contains at least twelve (12) transient guest rooms in the main house;

(ii) Has a separate meeting lodge and facility that also houses at least four (4) new French country transient suites;

(iii) Has at least two (2) kitchens on the premises and offers at least two (2) meals daily;

(iv) Has an open-air, outdoor, sylvan chapel suitable for the accommodation of wedding ceremonies;

(v) Provides entertainment in the form of cooking demonstrations, storytelling and dulcimer playing;

(vi) Is listed in Distinguished Inns of North America, 16th Edition, by Select Registry; and

(vii) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin;

(AA) A commercially operated facility that has all of the following characteristics:

(i) Is a full service colonial mansion located on an eighty-one-acre estate;

(ii) Contains no fewer than eight (8) transient rooms and seventeen (17) bathrooms;

(iii) Contains a dining room with capacity for fifty (50) persons that serves at least two (2) meals daily;

(iv) Has a heated swimming pool, a fitness center, a sauna, a tennis court and a billiard room;

(v) Has a system of hiking and walking trails;

(vi) Is listed in Distinguished Inns of North America, 16th Edition, by Select Registry; and

(vii) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin;

(BB) A facility that has nine (9) acres of shoreline development on Watts Bar Lake and that has all of the following characteristics:

(i) Has one- to three-bedroom cottages;

(ii) Has a marina with two hundred fifty (250) slips, both wet and dry;

(iii) Has a restaurant and lounge;

(iv) Has a swimming pool;

(v) Has rental boats;

(vi) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vii) Is located in a county having a population of not less than twenty-eight thousand three hundred fifty (28,350) nor more than twenty-eight thousand four hundred fifty (28,450), according to the 2000 federal census or any subsequent federal census;

(CC) A development that has all the following characteristics:

(i) Has a well established marina with boat rentals, gasoline, guide services, etc., and a resort operating for more than fifty (50) years;

(ii) Includes more than two hundred (200) acres on Watts Bar Lake;

(iii) Has forty (40) cottages rented on a daily or weekly basis;

(iv) Has a restaurant;

(v) Has walking and nature trails;

(vi) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vii) Is located in a county having a population of not less than twenty-eight thousand three hundred fifty (28,350) nor more than twenty-eight thousand four hundred fifty (28,450), according to the 2000 federal census or any subsequent federal census;

(DD) Any facility located in a municipality that has a civil war battlefield:

(i) Of which more than one thousand four hundred (1,400) acres have been designated in the National Register of Historic Places;

(ii) For which a management contract has been entered into between the municipality and the Tennessee historical commission;

(iii) Which has a self-guided driving tour;

(iv) For which long-range plans include walking trails, interpretive signs and a visitor's center with a museum;

(v) At which, every two (2) years, a living history and reenactment of the battle fought in December, 1862 is presented;

(vi) That is famous for the southern general's order to his troops to "Charge them both ways"; and

(vii) Is located in a county having a population of not less than twenty-five thousand four hundred fifty (25,450) nor more than twenty-five thousand five hundred fifty (25,550), according to the 2000 federal census or any subsequent federal census;

(EE) A facility that has at least fourteen (14) acres located on a lake of at least eight thousand (8,000) acres and that has the following characteristics:

(i) Contains at least three hundred and fifty (350) boat slips;

(ii) Contains a dry storage facility;

(iii) Provides boat rentals;

(iv) Contains a marine store;

(v) Contains a full service restaurant with seating for at least one hundred fifty (150) people, as well as a private banquet facility;

(vi) Has motel rooms and cabins for rent;

(vii) Contains a swimming pool;

(viii) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(ix) Is located in a county having a population of not less than fifty-six thousand seven hundred (56,700) nor more than fifty-six thousand eight hundred (56,800), according to the 2000 federal census or any subsequent federal census;

(FF) A facility that has three hundred eighty-five (385) acres of development on J. Percy Priest Lake and that has all the following characteristics:

(i) Has a water park;

(ii) Has a marina with more than three hundred twenty (320) slips;

(iii) Has a recreational vehicle (RV) campground;

(iv) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(v) Is located in a county having a population of not less than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census;

(GG) A development that has all of the following characteristics:

(i) Has a well established marina with boat slip rentals, gasoline, etc.;

(ii) Includes three hundred eighty-five (385) acres on J. Percy Priest Lake;

(iii) Has a water park;

(iv) Has a recreational vehicle (RV) campground;

(v) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vi) Is located in a county having a population of not less than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census;

(HH) A fully staffed overnight accommodations facility that:

(i) Is open twenty-four (24) hours a day, located on thirty-four (34) acres of land, that offers at least one (1) meal per day, along with hiking, a fitness facility, an event lawn, and a retail store;

(ii) Has twenty (20) one- and two-bedroom cabins that have kitchens or kitchenettes, wood-burning fireplaces, hot tubs, and high-speed internet access;

(iii) Has a one thousand five hundred square foot (1,500 sq. ft.) meeting facility with a capacity of up to one hundred twenty-five (125) persons, and a restaurant with a capacity of up to eighty-five (85) persons, both of which have high-speed internet access; and

(iv) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(II) A commercially operated facility containing all of the following characteristics:

(i) The facility has a marina with approximately one hundred sixty-six (166) wet slips and approximately one hundred thirty-three (133) dry storage units;

(ii) The facility is located within a lake-resort, gated residential development of at least one thousand two hundred (1,200) acres having in excess of four hundred fifty (450) single family homes and condominium units;

(iii) The facility is located on a lake that has over eight hundred thirty-four (834) miles of shore line;

(iv) The facility will have a restaurant with a seating capacity of at least fifty (50) people, serving at least two (2) meals a day;

(v) The facility does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vi) The facility is located within a county having a population of not less than thirty-nine thousand eight hundred (39,800) nor more than thirty-nine thousand eight hundred seventy-five (39,875), according to the 2000 federal census or any subsequent federal census;

(JJ)(i) A commercially-operated facility containing all of the following characteristics:

*(a)* The facility has on its premises a marina that has at least two hundred fifty (250) covered or uncovered wet slips and at least seventy-five (75) dry rack slips;

*(b)* The facility has on its premises property leased or available for lease to a boating, yachting or water-based recreational club;

*(c)* The facility has on its premises a restaurant, providing food service to the public or for private events, with seating in the restaurant for at least fifty (50) persons at tables, whether or not the seating is inside or on a deck or patio adjacent to the restaurant;

*(d)* The facility has the capacity to serve as a home berth location for a commercial vessel for hire or for public cruises of at least seventy-five feet (75′) in length;

(ii) When used in this subdivision (28)(JJ), the "facility" under subdivision (28)(JJ)(i) shall include any location within the property designated by the licensee;

(iii) A facility under this subdivision (28)(JJ) shall also include any passenger sternwheel paddleboat, licensed by the United States coast guard, with rated passenger capacity of not less than one hundred (100) passengers and which paddleboat shall be at least seventy-five feet (75′) in length, which may use the marina facilities as described in subdivision (28)(JJ)(i) for its home or principal secondary port dock. The authority conferred under this subdivision (28)(JJ)(iii), authorizing the sale or distribution of alcoholic beverages, including beer, on any qualified sternwheel paddleboat shall extend only so long as the paddleboat is located at the marina facility described in subdivision (28)(JJ)(i) or is within one hundred (100) miles of the marina facility;

(iv) For purposes of obtaining a license under this subdivision (28)(JJ), the commission shall be authorized to issue a license solely to the owner or operator of a sternwheel paddleboat, meeting the qualifications of subdivision (28)(JJ)(iii), whether or not the facility described in subdivision (28)(JJ)(i) receives a license under this chapter;

(KK) A commercially operated restaurant located within a county having a population of not less than thirty-nine thousand seven hundred

fifty (39,750) nor more than forty thousand (40,000) and also located within the corporate limits of a municipality having a population of not less than seven thousand seven hundred fifty (7,750) nor more than eight thousand (8,000), according to the 2000 federal census or any subsequent federal census, and in addition to satisfying the requirements of subdivision (31)(A), also meets the following additional requirements:

(i) The facility is in a structure of not less than six thousand square feet (6,000 sq. ft.);

(ii) The facility has seating at tables, for at least two hundred (200) persons; and

(iii) The facility serves at least two (2) meals a day, five (5) days a week, with the exception of holidays, vacations and periods of redecorating;

(LL) A commercially operated recreational facility containing all of the following characteristics:

(i) Owning and operating one (1) or more golf courses, that include practice putting greens, chipping greens and a driving range;

(ii) Operating a clubhouse facility, of at least eight thousand square feet (8,000 sq. ft.), containing a commercial quality kitchen and seating for at least one hundred (100) persons at tables;

(iii) Operating a private clubhouse of at least five thousand square feet (5,000 sq. ft.), with seating at tables for at least eighty (80) persons, and which private clubhouse contains a full service kitchen;

(iv) Located on a minimum of one hundred thirty-seven (137) acres; and

(v) Located within a county through which a major interstate passes, supports a Tennessee board of regents university of approximately nine thousand three hundred (9,300) students for the 2006 academic year and whose sports teams are nicknamed the golden eagles;

(MM) A facility operated either commercially or on a nonprofit basis as a club containing all of the following characteristics:

(i) A clubhouse having not less than approximately five thousand eight hundred square feet (5,800 sq. ft.);

(ii) An eighteen-hole golf course for use by its members and their guests;

(iii) A restaurant with a suitable kitchen, dining facilities and equipment serving two (2) meals daily and open six (6) days a week;

(iv) Is part of a planned unit development;

(v) Has at least one hundred (100) members regularly paying dues;

(vi) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vii) Is located in a county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census;

(NN) It is lawful for a facility providing full service dining to serve wine to be consumed on the premises, subject to the further provisions of this chapter, other than § 57-4-103, that contains the following

characteristics:

(i) The facility provides seating at tables for not less than one hundred twenty-five (125) persons and is located on approximately three (3) acres;

(ii) The dining area is at least four thousand eight hundred square feet (4,800 sq. ft.);

(iii) The facility provides seating, on a deck or a patio, for at least forty (40) persons, weather permitting, which deck or patio is in close proximity to a river or waterway; and

(iv) The facility is located in a county with a population of not less than twenty-three thousand (23,000) nor more than twenty-three thousand two hundred (23,200), according to the 2000 federal census or any subsequent federal census;

(OO) A commercially operated facility containing all of the following characteristics:

(i) The facility has overnight accommodations for at least thirty-two (32) people in at least twelve (12) private guest rooms with en-suite bathrooms;

(ii) The facility has a main dining room which seats at least thirty-two (32) people;

(iii) The facility has meeting and conference space, including at least two (2) dedicated conference rooms;

(iv) The facility has a historic water-operated grist mill;

(v) The facility does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vi) The facility is located within a county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000 federal census or any subsequent federal census;

(PP) A commercially operated facility containing all of the following characteristics:

(i) The facility has a marina with at least four hundred thirty-five (435) wet slips;

(ii) The facility has a minimum of four hundred twelve (412) paved single car parking spaces and in addition at least thirty (30) car/trailer paved parking spaces;

(iii) The facility has a restaurant with inside seating for at least seventy-eight (78) persons and patio dining for at least fifty-four (54) persons;

(iv) The facility is located within one great circle mile of Tennessee highway 56;

(v) The facility is located on a lake with at least eighteen thousand (18,000) acres of water and at least three hundred forty-two (342) miles of shore line; and

(vi) The facility is located within a county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000 federal census or any subsequent federal census;

(QQ)(i) A commercially operated facility containing all of the following characteristics:

*(a)* Owning and operating a golf course that is open to the public, that includes practice putting and chipping greens and a driving range;

*(b)* Operating a clubhouse facility of approximately four thousand square feet (4,000 sq. ft.), containing a commercial quality kitchen and seating for at least eighty-three (83) persons inside at tables;

*(c)* The facility is located at the intersection of State Highway 55 and Pete Sain Road;

*(d)* The facility does not discriminate against any patron on the basis of gender, race, religion or national origin; and

*(e)* The facility is located within a county having a population of not less than forty-eight thousand (48,000) nor more than forty-eight thousand one hundred (48,100), according to the 2000 federal census or any subsequent census;

(ii) The rights of any facility licensed under this subdivision (28)(QQ) as to activities permitted under this chapter may be held by the entity that owns the facility, the entity that leases the facility, or an entity operating a restaurant pursuant to a written contract with the entity that owns or leases the facility;

(RR) A commercially operated recreational facility on at least ninety (90) acres of land that borders the Cherokee National Forest that offers lodging, recreation and restaurant packages to patrons containing all of the following characteristics:

(i) A rustic lodge with at least five (5) private overnight rooms that all possess a king-sized bed, mini-refrigerator, coffee maker, microwave, television, sitting area and private full bathroom, all of which have views of the mountains and are situated in a lodge with a shared great room and hot tub;

(ii) At least ten (10) cabins for overnight stays that sleep multiple persons, some of which are company-owned and some of which are privately-owned but rented by the company, and include the following amenities: television, outdoor hot tub on private deck, heat and air conditioning, gas grill, cookware, fireplace, linens and towels and large and small appliances including washer/dryer and all common kitchen appliances;

(iii) Riding stables with at least twenty-two (22) stalls for both horses owned by the resort and for overnight lease for or by guests, on-site guided trail rides provided by the owners, a horse arena with a bathroom, mountain biking, hiking, fishing including an on-site stocked pond and swimming in the guest swimming pool;

(iv) A dining restaurant that possesses a kitchen and is currently permitted to serve beer that is attached to a larger multi-purpose hall that hosts banquets, dining, dancing, music, live bands and other types of entertainment, all of which are connected to two (2) bars and at least one (1) private room and includes dining upstairs and downstairs and multiple outdoor seating decks, all of which possess a combined seating

of at least two hundred (200) persons, that serves at least nine (9) meals on a weekly basis, with the exceptions of closures for private groups that include the year-round hosting of reunions, weddings and corporate workshops and seasonal closures, vacations, general maintenance and remodeling by the owners;

(v) A building that contains an administrative office and a general store complete with all sorts of merchandise for use on and off of the premises of the resort, a building that contains a tack store that sells all sorts of horse-related merchandise and a building that contains a game room;

(vi) An outdoor pavilion that possesses a grill and in which other outdoor cooking devices may be used and that is used to serve meals outdoors in combination with foods prepared in the kitchen;

(vii) A gazebo used for outdoor weddings;

(viii) When used in this subdivision (28)(RR), "facility" includes any location within the property designated by the licensee;

(ix) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(x) Is located within a county having a population of not less than thirty-three thousand five hundred twenty-five (33,525) nor more than thirty-three thousand six hundred (33,600), according to the 2000 federal census or any subsequent federal census;

(SS)(i) A commercially operated recreational facility, whether open to the public or limited to members and guests of a corporation, limited liability company, association or of the development in which it is located, owned and operated by a corporation, limited liability company or association, having all of the following characteristics:

*(a)* The facility must be located in or adjacent to a residential real estate development containing no less than one thousand (1,000) acres and no more than two thousand (2,000) acres, inclusive of the facility;

*(b)* The facility must have at least three (3) permanent structures, open to the public or to members and their guests, with the largest structure having at least thirty thousand square feet (30,000 sq. ft.) of enclosed space;

*(c)* The closest boundary of the real estate development in which the facility is located must be located no more than two thousand feet (2,000′) from the right-of-way of Interstate 840 and must be directly adjacent to Arno Road;

*(d)* The facility must maintain the following types of recreational amenities:

*(1)* A golf course having at least eighteen (18) holes;

*(2)* At least one (1) swimming pool;

*(3)* At least one (1) tennis court; and

*(4)* A fitness facility;

*(e)* The facility must have at least one (1) room or rooms that are regularly kept, used and maintained as a place where meals are regularly served, with adequate and sanitary kitchen facilities and

seating at tables for at least seventy-five (75) persons;

*(f)* The facility must be located in a county having a population of not less than one hundred twenty-six thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census; and

*(g)* The facility must not discriminate against any patron on the basis of age, gender, race, religion or national origin;

(ii) The premises of any facility licensed under this subdivision (28)(SS) means any or all of the property that constitutes the facility, including swimming pools, tennis courts, golf courses, paths and road crossings. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(TT)(i) A commercially operated recreational facility which contains each of the following characteristics:

*(a)* Is located within a county with a population of not less than seventeen thousand (17,000) nor greater than eighteen thousand (18,000), according to the 2010 federal census or any subsequent federal census;

*(b)* Has located on its premises, stables for the temporary or permanent stabling of horses with a capacity of at least two hundred twenty (220) horses;

*(c)* Consists of property of at least ten thousand (10,000) acres, contiguous and noncontiguous;

*(d)* Has located upon its premises trails and horseback riding, wagon trails, campsites with electrical service, bathhouses and a pavilion for cookouts; and

*(e)* Has a restaurant facility for the preparation and serving of food and beverages to guests of the facility located at the facility;

(ii) The rights of the facility as to activities permitted under this chapter may be held by the entity which owns the facility, the entity which leases the facility, or an entity operating the restaurant pursuant to a written contract with the entity which owns or leases the facility;

(iii) The facility may be a contiguous parcel of property or may be noncontiguous; provided, that any part of the facility which is noncontiguous to any other part of the facility is separated only by a roadway or street; and

(iv) The entity excising the rights of the facility shall be authorized to engage in the activities permitted under this chapter anywhere on the premises of the facility as disclosed to the commission;

(UU) A privately owned facility possessing each of the following characteristics:

(i) Is located on at least twenty (20) acres;

(ii) Has a restaurant facility with at least one thousand two hundred square feet (1,200 sq. ft.) that seats at least one hundred (100) patrons at tables located both inside and outside the facility;

(iii) Has a marina with at least one hundred (100) slips and that

provides house boat rentals of at least four (4) house boats;

(iv) Has at least four (4) cabins, seven (7) camping slots and at least three (3) RV slots;

(v) Has a boat repair shop and a store that carries boating and skiing type items;

(vi) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vii) Is located within any county having a population of not less than seventeen thousand eight hundred (17,800) nor more than seventeen thousand eight hundred seventy-five (17,875), according to the 2000 federal census or any subsequent federal census;

(VV) A commercially operated facility containing all of the following characteristics:

(i) The facility has a marina with at least two hundred forty (240) wet slips;

(ii) The facility has a minimum of nine (9) housing units for rent containing nineteen (19) bedrooms;

(iii) The facility has a campground with twelve (12) sites containing electric and sewer hookups;

(iv) The facility has a minimum of one hundred forty-seven (147) paved single car parking spaces;

(v) The facility has a restaurant with inside seating for at least twenty-eight (28) persons and patio dining for at least forty (40) persons;

(vi) The facility has an outdoor pavilion which seats one hundred fifty (150) persons;

(vii) The facility is located on Jefferson Road, approximately six and one tenth (6.1) miles from the intersection with Highway 288/Keltonburg Road and thirteen (13) miles from Highway 70;

(viii) The facility is located on a lake with at least eighteen thousand (18,000) acres of water and at least three hundred forty-two (342) miles of shore line; and

(ix) The facility is located within a county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000 federal census or any subsequent federal census;

(WW) A commercially operated facility containing all of the following characteristics:

(i) The facility has a minimum of eighty seven (87) parking spaces;

(ii) The facility has a restaurant open year-round with inside seating for at least sixty (60) persons and outside seating for at least one hundred nineteen (119) persons;

(iii) The facility is located on Highway 96 less than one (1) mile from Center Hill Lake; and

(iv) The facility is located within a county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000 federal census or any subsequent federal census;

(XX) A commercially operated facility containing all of the following

characteristics:

(i) The facility has a minimum of eighty five (85) parking spaces;

(ii) The facility has a restaurant open year-round at least six (6) days a week with inside seating for at least one hundred (100) persons and outside seating for at least one hundred twenty (120) persons;

(iii) The facility is located on Highway 70 less than three (3) miles from Center Hill Lake; and

(iv) The facility is located within a county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000 federal census or any subsequent federal census;

(YY) A commercially operated facility containing all of the following characteristics:

(i) The facility owns and operates an eighteen (18) hole golf course that is open to the public, which includes putting greens and a driving range;

(ii) The facility operates a clubhouse facility of approximately five thousand square feet (5,000 sq. ft.), with seating at tables for at least eighty (80) persons and which clubhouse contains a full-service kitchen;

(iii) The facility operates a swimming pool;

(iv) The facility is located on a minimum of one hundred thirty-three (133) acres;

(v) The facility is located adjacent to old Highway 45W and is situated within a county having a population of not less than forty-eight thousand one hundred twenty-five (48,125) nor more than forty-eight thousand two hundred (48,200), according to the 2000 federal census or any subsequent federal census; and

(vi) The facility does not discriminate against any patron on the basis of gender, race, religion or national origin;

(ZZ) A commercially operated facility containing all of the following characteristics:

(i) The facility has a marina with at least five hundred thirty (530) wet slips;

(ii) The facility has a minimum of two hundred fifty (250) paved single car parking spaces;

(iii) The facility has a restaurant with inside seating for at least eighty (80) persons and outside seating for at least sixty (60) persons;

(iv) The facility is located on a lake with at least eighteen thousand (18,000) acres of water and at least three hundred forty-two (342) miles of shore line; and

(v) The facility is located within a county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000 federal census or any subsequent federal census;

(AAA) A commercially operated facility containing all of the following characteristics:

(i) The facility includes a one hundred forty-seven thousand square foot (147,000 sq. ft.) boat and RV showroom and service center with retail sales of all types of camping and boating equipment as well as a

boat and RV parts department;

(ii) The facility has a two hundred fifty (250) seat full service restaurant;

(iii) The facility has a two hundred fifty (250) site campground with two (2) swimming pools, cabins and a lodge;

(iv) The facility is a travel center with a store, pizzeria, delicatessen, fuel center;

(v) The facility has an arcade;

(vi) The facility is located at 2475 Westel Road; and

(vii) The facility is located within a county having a population of not less than forty-six thousand eight hundred (46,800) nor more than forty-six thousand nine hundred (46,900), according to the 2000 federal census or any subsequent federal census;

(BBB) A commercially operated facility containing all of the following characteristics:

(i) The facility has a marina with at least one hundred one (101) wet slips;

(ii) The facility has a minimum of sixty (60) paved single car parking spaces;

(iii) The facility has a restaurant with adequate and sanitary kitchen facilities with inside seating for at least forty (40) persons and outside seating for at least one hundred fifty (150) persons and is kept, used and maintained as a place where meals are served and where meals are actually and regularly served when the facility is opened for business; and

(iv) The facility is located within a county having a population of not less than thirty-one thousand one hundred (31,100) nor more than thirty-one thousand two hundred (31,200), according to the 2000 federal census or any subsequent federal census;

(CCC) A commercially operated facility which contains all of the following characteristics:

(i) Is a bed and breakfast homestay, as defined in § 68-14-502(1)(B), that opened in 2008;

(ii) Has at least two (2) rooms available for overnight guests;

(iii) Is able to prepare on-site custom meals for up to thirty (30) persons;

(iv) Offers cooking classes; and

(v) Is located within any county having a population of not less than one hundred eighty-two thousand (182,000) nor more than one hundred eighty-two thousand one hundred (182,100), according to the 2000 federal census or any subsequent federal census;

(DDD) A commercially operated recreational facility whether open to the public or limited to members and guests of an association or of the development on which it is located, owned, and operated by an association or corporation and in connection with an eighteen-hole golf course which facility is regularly kept, used, and maintained as a place where meals are actually and regularly served, with adequate and sanitary kitchen facilities, and which facility meets all the following characteristics:

(i) The facility must have a clubhouse with no less than six thousand enclosed square feet (6,000 sq. ft.);

(ii) The facility must be located within the limits of a development that is within five hundred yards (500 yds.) of a water reservoir operated and maintained by the United States Army corps of engineers during 1998 or any subsequent years;

(iii) The facility must be located within at least three (3) miles of an airport with lighted runway of at least three thousand feet (3000′) in length;

(iv) Maintenance within the recreational area of the following types of recreational facilities:

*(a)* Golf course of at least eighteen (18) holes;

*(b)* Swimming pool; and

*(c)* Tennis court; and

(v) The facility is located within a county having a population of not less than twenty-nine thousand eight hundred (29,800) nor more than twenty-nine thousand nine hundred (29,900), according to the 2000 federal census or any subsequent federal census;

(EEE) A privately-owned resort and recreational facility possessing each of the following characteristics:

(i) Has at least ninety-five (95) acres located approximately five (5) miles south of Interstate 40 on Tennessee State Highway 13;

(ii) Is fronted on the west side by Tennessee State Highway 13 and bordered on the south side by a scenic river as defined in title 11, chapter 13, part 1;

(iii) Has at least four (4) cabins;

(iv) Has at least thirty (30) recreational vehicle pads and sites with full electrical, water and sewer hookups;

(v) Has at least a forty-seat restaurant which has been approved by the local health department that has an approved beer permit and has food available, with exceptions of closures for private groups or events, seasonal closures, vacations, general maintenance and remodeling by the owners;

(vi) When used in this subdivision (28)(EEE), the "facility" shall include any location within the property designated by the licensee;

(vii) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(viii) Is located within any county having a population of not less than seven thousand six hundred (7,600) nor more than seven thousand seven hundred (7,700), according to the 2000 census or any subsequent federal census; and the legislative body of such county adopts a resolution endorsing such resort and recreational facility as a premier type tourist resort as defined in this subdivision (28);

(FFF) A commercially operated facility containing all of the following characteristics:

(i) Has a restaurant serving an upscale menu featuring lobster tail, crab legs and fresh cut steaks;

(ii) Is located on a lake by a marina;

(iii) Has a boat dock within walking distance of the restaurant;

(iv) Has indoor seating for approximately one hundred thirty (130) diners and outdoor dining on the patio with seating for approximately one hundred eighty (180);

(v) Offers live entertainment on the patio at its Tiki Bar; and

(vi) Is located in any county having a population of not less than forty-four thousand two hundred (44,200) nor more than forty-four thousand three hundred (44,300), according to the 2000 federal census or any subsequent federal census;

(GGG) A privately-owned resort and recreational facility possessing each of the following characteristics:

(i) Has a dock with marina which has at least one hundred seventy (170) boat slips which is located on or near the four hundred eighty-two (482) mile marker on the Tennessee River;

(ii) Has an outside gazebo which is used for various functions;

(iii) Has a restaurant with a dining room of at least four thousand two hundred square feet (4,200 sq. ft.), which seats at least two hundred (200) persons both indoors and outdoors, including an outdoor balcony; and which serves meals at least four (4) days on a weekly basis including Sunday brunch, with exceptions of closures for private groups or events; and seasonal closures, vacations, general maintenance and remodeling by the owners;

(iv) When used in this subdivision (28)(GGG), the "facility" shall include any location within the property designated by the licensee; and

(v) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(HHH) A commercially operated facility containing all of the following characteristics:

(i) Regularly serves meals at tables and continuously maintains adequate kitchen facilities;

(ii) Has indoor seating for approximately one hundred twenty (120) diners and outdoor seating for approximately one hundred thirty (130);

(iii) Is located on the banks of the Cumberland River;

(iv) Has a transient boat dock within walking distance of the restaurant;

(v) Specializes in serving catfish and is often referred to as "the Catfish Place under the bridge"; and

(vi) Is located in any county having a population of not less than thirty-nine thousand one hundred (39,100) nor more than thirty-nine thousand two hundred (39,200), according to the 2010 federal census or any subsequent federal census;

(III) A bed and breakfast possessing each of the following characteristics:

(i) The house is approximately ten thousand square feet (10,000 sq. ft.) and has rooms for approximately twelve (12) guests to stay overnight;

(ii) Has a smaller upper level patio and a larger, lower level patio;

(iii) Has a main dining room on the first floor which can accommodate approximately seventy (70) guests. The main dining room is one (1) large room with floor to ceiling windows providing one hundred eighty degrees (180°) of lakefront viewing;

(iv) Has accommodations for an additional forty (40) guests for outside dining;

(v) Is located in the Long Branch portion of Dale Hollow Lake;

(vi) The property on which the bed and breakfast is situated has space for weddings, family reunions and other large gatherings on the large outside portion of the property; and

(vii) Is located in any county having a population of less than seven thousand eight hundred fifty-one (7,851) nor more than seven thousand eight hundred sixty-five (7,865), according to the 2010 federal census or any subsequent federal census;

(JJJ) A hotel possessing all of the following characteristics:

(i) Contains at least twenty five (25) rooms for the sleeping accommodations of guests;

(ii) Is registered as a national historic landmark;

(iii) Is located within a central business improvement district; and

(iv) Is located in any county having a population of not less than four hundred thirty-two thousand two hundred (432,200) nor more than four hundred thirty-two thousand three hundred (432,300), according to the 2010 federal census or any subsequent federal census;

(KKK) A commercially operated recreational facility possessing each of the following characteristics:

(i) Is located at least two hundred feet (200′) from a natural lake that is located in or near a state park, which has waterfowl hunting and fishing is available year round;

(ii) Has a restaurant which has:

*(a)* A beer license;

*(b)* A commercial kitchen; and

*(c)* Seating for at least seventy-five (75); and

(iii) Has a boat ramp and boat dock;

(LLL) A commercially operated facility containing all of the following characteristics:

(i) The facility has a restaurant open year-round with inside seating for at least seventy-five (75) persons;

(ii) The facility has a minimum of eighty-five (85) parking spaces;

(iii) The facility is located on Highway 70 less than three (3) miles from Center Hill Lake; and

(iv) The facility is located within a county having a population of not less than eighteen thousand seven hundred (18,700) nor more than eighteen thousand seven hundred fifty (18,750), according to the 2010 federal census or any subsequent federal census;

(MMM)(i) A commercially operated recreational facility possessing all of the following characteristics:

*(a)* A golf course of at least eighteen (18) holes;

*(b)* Wooded trails for horseback riding;

*(c)* A fully stocked fishing pond;

*(d)* At least three (3) tennis courts;

*(e)* Located in any county having a population of not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census; and

*(f)* Is located no more than two thousand feet (2,000′) from the right-of-way of Interstate 840 and must be directly adjacent to Arno Road;

(ii) The premises of any facility licensed under this subdivision (28)(MMM) means any or all of the property that constitutes the facility, including swimming pools, tennis courts, golf courses, paths, and road crossings. A license shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(NNN) A commercially owned marina containing all of the following characteristics:

(i) Operates as a marina on approximately forty-six (46) acres of land;

(ii) Has a restaurant with at least one hundred ten (110) seats;

(iii) Has approximately two hundred (200) boat slips;

(iv) Has seven (7) cabins; and

(v) Is located in a county having a population of not less than forty-four thousand five hundred (44,500) nor more than forty-four thousand six hundred (44,600), according to the 2010 federal census or any subsequent federal census;

(OOO) A commercially operated facility containing all of the following characteristics:

(i) Operates as a hunting lodge on approximately four hundred (400) acres of land;

(ii) Has adequate kitchen facilities and a dining area within the hunting lodge with seating of at least fifty (50) at tables;

(iii) Has capacity to sleep at least thirty (30) guests within the main hunting lodge and at least twenty (20) guests in a cabin located on the property; and

(iv) Is located off I-40 at Exit 311 in any county having a population of not less than fifty-six thousand (56,000) nor more than fifty-six thousand one hundred (56,100), according to the 2010 federal census or any subsequent federal census;

(PPP) A commercially operated facility open to the public for persons twenty-one (21) years of age or older that has all of the following characteristics:

(i) Is located within three (3) miles of Dale Hollow Lake;

(ii) Has a kitchen that serves food to customers;

(iii) Is licensed to sell beer;

(iv) Is located in an A frame building built in 1968;

(v) Has a deck of more than one thousand square feet (1,000 sq. ft); and

(vi) Is located in any county having a population of not less than seven thousand eight hundred fifty-one (7,851) nor more than seven

thousand eight hundred sixty-five (7,865), according to the 2010 federal census or any subsequent federal census;

(QQQ)(i) A commercially operated resort, restaurant, marina and recreational facility possessing all of the following characteristics:

*(a)* Is located on at least five (5) acres but no more than seven (7) acres at day marker four (4) as designated by the Tennessee Valley authority on Norris Lake;

*(b)* Has a marina with at least one hundred forty-five (145) boat slips, most of which are contracted for use on an annual basis, but also includes use for drive-ups;

*(c)* Rents pontoon, ski, and house boats;

*(d)* Has a marina store;

*(e)* Has a restaurant with a full service kitchen with combined seating indoors and outdoors for at least one hundred (100) patrons;

*(f)* Has a restaurant that serves at least twelve (12) meals on a weekly basis with exceptions of closures for private groups or events, seasonal reasons, vacations, general maintenance and remodeling by the owners;

*(g)* Has special events and weddings inside and outside;

*(h)* Has at least fifty-five (55) condominiums with at least thirty (30) of the condominiums available for rental on a nightly or weekly basis;

*(i)* Has a restaurant that possesses a beer permit for on and off-premises consumption;

*(j)* Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

*(k)* Is located in a county having a population of not less than forty thousand seven hundred (40,700) nor more than forty thousand eight hundred (40,800), according to the 2010 federal census or any subsequent federal census;

(ii) The facility licensed pursuant to this subdivision (28)(QQQ) shall make food available at any time when alcoholic beverages are being served.

(iii) When used in this subdivision (28)(QQQ), "facility" means any location within the property as designated by the licensee;

(RRR) A commercially operated marina, restaurant, and recreational facility possessing all of the following characteristics:

(i) Is located on at least thirty-two (32) acres of land located off Old Awalt Road;

(ii) Has a marina with at least two hundred fifty (250) wet slips located on Tims Ford Lake;

(iii) Has a restaurant with a dining room to accommodate at least two hundred (200) patrons;

(iv) Includes at least five (5) rental cabins and a motel with at least (5) rental units on its grounds; and

(v) Has a fuel dock with a stationary tank that holds at least six thousand gallons (6,000 gals.) of fuel;

(SSS) A commercially operated mountaintop resort and recreational

facility possessing all of the following characteristics:

(i) Is located on at least one thousand two hundred (1,200) acres at an altitude of between two thousand five hundred feet (2,500′) and three thousand feet (3,000′);

(ii) Provides nightly lodging in at least eleven (11) furnished suites with balconies, all of which are located in at least two (2) buildings;

(iii) Has a restaurant with a full service kitchen with combined seating indoors and outdoors for at least one hundred (100) patrons; and which serves at least twelve (12) meals on a weekly basis with exceptions of closures for private groups or events; and seasonal closures, vacations, general maintenance and remodeling by the owners; provided, however, that food shall be made available at any time when alcoholic beverages are being served; and such restaurant shall already possess a beer permit for on-premises consumption;

(iv) Hosts special on-site events including weddings, receptions, reunions, corporate meetings, and club or group gatherings;

(v) Has a wooden walkway through chimney rock formations;

(vi) Has a heliport with at least two (2) landing pads;

(vii) When used in this subdivision (28)(SSS), "facility" includes any location within the property as designated by the licensee;

(viii) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(ix) Is located in a county having a population of not less than forty thousand seven hundred (40,700) nor more than forty thousand eight hundred (40,800), according to the 2010 census or any subsequent federal census;

(TTT) A commercially owned marina, resort, and recreational facility possessing each of the following characteristics:

(i) Includes a full service marina that includes at least one hundred thirty (130) boat slips with the capacity to have three hundred seventy-five (375) covered boat slips ranging in size from twenty-four feet (24′) to thirty feet (30′) deep; and which is located opposite the one hundred and thirty-three and one-third R (133.3R) mile marker on the Clinch River on Norris Lake;

(ii) Has a public pump station;

(iii) Has a restaurant with at least one hundred (100) seats both indoors and outdoors which serves at least six (6) meals on a weekly basis, with exceptions of closures for private groups or events, and seasonal closures, vacations, general maintenance, and remodeling by the owners;

(iv) Has a ship store;

(v) Has gas docks;

(vi) Has a marina campground with at least twenty (20) campsites with electric, water, and wastewater connections;

(vii) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(viii) The facility is located within a county having a population of not less than thirty-two thousand two hundred (32,200) nor more than

thirty-two thousand three hundred (32,300), according to the 2010 federal census or any subsequent federal census. When used in this subdivision (28)(TTT), "facility" includes any location within the property designated by the licensee;

(UUU)(i) A commercially or privately operated facility containing all of the following characteristics:

*(a)* Is located on Tellico Lake, containing a minimum area of six hundred fifty (650) contiguous acres;

*(b)* Has an information and sales center;

*(c)* Has public access walking trails;

*(d)* Has a championship golf course of at least eighteen (18) holes;

*(e)* Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

*(f)* Is located within any county having a population of not less than forty-eight thousand five hundred (48,500) nor more than forty-eight thousand six hundred (48,600), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (28)(UUU) shall mean any or all of the property that constitutes the facility, including, but not limited to, clubhouses, restaurants, gift and pro shops, marinas, swimming pools, tennis courts, golf courses, and paths and road crossings. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises and such drawing may be amended by the licensee filing a new drawing;

(VVV) A commercially operated private tennis club possessing all of the following characteristics:

(i) Is located on at least thirteen (13) acres of land located off Racquet Club Way;

(ii) Has at least ten (10) indoor hard tennis courts located indoors;

(iii) Has at least five (5) hard tennis courts and at least twelve (12) clay tennis courts located outdoors; and

(iv) Includes a five thousand square foot (5,000 sq. ft.) club house on its grounds;

(WWW) A commercially operated recreational facility possessing all of the following characteristics:

(i) Has a banquet room that seats not less than seventy-five (75) people;

(ii) Has a semi-private golf course of at least eighteen (18) holes;

(iii) Has a club house, restaurant that serves food, and swimming pool;

(iv) Is located not less than one (1) mile from Interstate 40 and is adjacent to Golf Course Road;

(v) Is located in a county having a population of not less than thirty-five thousand six hundred (35,600) nor more than thirty-five thousand seven hundred (35,700), according to the 2010 federal census or any subsequent federal census;

(XXX) A commercially owned marina, resort and recreational facility possessing each of the following characteristics:

(i) Includes a full service marina that includes at least one hundred (100) covered boat slips, at least thirty-five (35) mooring line buoys, at least five (5) floating home rentals, and offers for rental at least fourteen (14) watercraft of various types including ski-boats, single and double deck pontoons, jet skis, and standup paddle boats; and which is located at Big Creek Mile eight.zero L (8.0L), Whitman Hollow Branch Norris Reservoir;

(ii) Has a restaurant with at least seventy-five (75) seats combined indoors and outdoors, which serves at least ten (10) meals on a weekly basis, with exceptions of closures for private groups or events, and seasonal closures, vacations, general maintenance and remodeling by the owners; provided, however, that food shall be made available at any time that alcoholic beverages are being served;

(iii) Has at least seven (7) campsites;

(iv) Has at least two (2) vacation rental homes;

(v) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(vi) Is located in any county having a population of not less than forty thousand seven hundred (40,700) nor more than forty thousand eight hundred (40,800), according to the 2010 federal census or any subsequent federal census;

(YYY) A commercially owned marina, resort and recreational facility possessing each of the following characteristics:

(i) Has a full service marina that includes at least three hundred (300) boat slips and is located on Norris Lake;

(ii) Has a restaurant with at least seventy-two (72) indoor seats and seventy-two (72) outdoor seats, which serves at least ten (10) meals on a weekly basis, with exceptions of closures for private groups or events, and seasonal closures, vacations, general maintenance and remodeling by the owners; provided, however, that food shall be made available at any time that alcoholic beverages are being served;

(iii) Has a motel with at least twenty-four (24) rooms;

(iv) Has at least two (2) vacation rental cabins and at least twenty-three (23) recreational vehicle (RV) slots;

(v) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(vi) Is located in any county having a population of not less than forty thousand seven hundred (40,700) nor more than forty thousand eight hundred (40,800), according to the 2010 federal census or any subsequent federal census;

(ZZZ) A commercially operated facility possessing each of the following characteristics:

(i) Has adequate kitchen facilities and a dining area within the facility that has a seating capacity of at least fifty (50);

(ii) Is within four (4) miles of Douglas Lake;

(iii) Is located on the corner of Greenhill Road and Hwy 25-70 within one (1) mile of I-40 at Exit 415; and

(iv) Is located in a county having a population of not less than fifty-one thousand four hundred (51,400) nor more than fifty-one thou-

sand five hundred (51,500), according to the 2010 federal census or any subsequent federal census;

(AAAA)(i) A privately owned resort and recreational facility possessing each of the following characteristics:

*(a)* Is located off U.S. Highway 421 in any county having a population of not less than eighteen thousand two hundred (18,200) nor more than eighteen thousand three hundred (18,300), according to the 2010 federal census or any subsequent federal census;

*(b)* Has a semi-private golf course of at least eighteen (18) holes;

*(c)* Has at least twenty (20) accommodation units;

*(d)* Has at least two (2) tennis courts;

*(e)* Has at least one (1) swimming pool;

*(f)* Has a restaurant that seats at least fifty (50) people; and

*(g)* Has a meeting facility;

(ii) The premises of any resort and recreational facility licensed under this subdivision (28)(AAAA) shall mean any or all of the property that constitutes the resort and facility, including, but not limited to, clubhouses, restaurants, gift and pro shops, swimming pools, tennis courts, golf courses, and paths and road crossings. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, and such drawing may be amended by the licensee filing a new drawing;

(BBBB) It is lawful for any establishment located in a municipality having a population of not less than six hundred (600) nor more than six hundred ten (610), according to the 2010 federal census or any subsequent federal census, which is located in a county having a population of not less than two hundred sixty-two thousand six hundred (262,600) nor more than two hundred sixty-two thousand seven hundred (262,700), according to the 2010 federal census or any subsequent federal census, that is licensed to serve beer to also serve alcoholic beverages and wine to be consumed on the premises, subject to the further provisions of this chapter other than § 57-4-103;

(CCCC) A commercially owned marina, resort, and recreational facility possessing each of the following characteristics:

(i) Includes a full-service marina that includes at least one hundred fifty (150) boat slips and is located on Norris Lake;

(ii) Has at least eight (8) campsites;

(iii) Has a restaurant with at least eighty (80) seats, which serves at least ten (10) meals on a weekly basis, with exceptions of closures for private groups or events, and seasonal closures, vacations, general maintenance, and remodeling by the owners; provided, however, that food shall be made available at any time that alcoholic beverages are being served;

(iv) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(v) Is located in any county having a population of not less than forty thousand seven hundred (40,700) nor more than forty thousand eight hundred (40,800), according to the 2010 federal census or any subsequent federal census;

(DDDD) A commercially operated facility possessing each of the following characteristics:

(i) Is located within a one thousand foot (1,000′) radius from the intersection of U.S. Highway 41A and University Avenue/Lake O'Donnell Road on property owned by a private institution of higher education, the campus of which is at least ten thousand (10,000) acres;

(ii) Is located in any county having a population of not less than forty-one thousand (41,000) nor more than forty-one thousand one hundred (41,100), according to the 2010 federal census or any subsequent federal census;

(iii) Has prepared and served hot food for on-site dining with indoor seating for at least twenty-five (25) persons for at least twenty-four (24) months; and

(iv) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(EEEE) An entity that is authorized by the department of environment and conservation to operate a restaurant or other food and beverage service on the premises of a state park;

(FFFF) It is lawful for any establishment located in a municipality having a population of not less than four hundred ninety (490) nor more than four hundred ninety-nine (499), according to the 2010 federal census or any subsequent federal census, which is located in a county having a population of not less than thirty-two thousand two hundred (32,200) nor more than thirty-two thousand three hundred (32,300), according to the 2010 federal census or any subsequent federal census, that is licensed to serve beer to also serve alcoholic beverages and wine to be consumed on the premises, subject to the further provisions of this chapter other than § 57-4-103;

(GGGG) A commercially operated facility possessing each of the following characteristics:

(i) Is located in any county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(ii) Regularly serves meals;

(iii) Contains an adequate and sanitary kitchen;

(iv) Has seating for not less than forty (40) people at tables;

(v) Is located on floatation devices on the Cumberland river in close proximity to a marina; and

(vi) May be seasonally closed;

(HHHH) A commercially operated recreational facility possessing each of the following characteristics:

(i) Is located:

*(a)* On at least two thousand five hundred (2,500) acres, approximately eight (8) miles from an interstate highway; and

*(b)* Along a waterway that flows into a river, a portion of which has been designated as a scenic river;

(ii) Has at least twelve (12) cabins and at least three hundred fifty (350) campsites;

(iii) Has a motor cross trail or trails and a horseback riding trail or trails;

(iv) Has a restaurant with seating for at least one hundred (100);

(v) Has a one thousand six hundred square foot (1,600 sq. ft.) stage at an amphitheater that seats approximately two thousand five hundred (2,500); and

(vi) Has least five (5) hotels or motels located near the facility;

(IIII) A commercially operated facility containing all of the following characteristics:

(i) Is located:

*(a)* On at least twenty-two (22) acres;

*(b)* Within a county having a population of not less than seventy-two thousand three hundred (72,300) nor more than seventy-two thousand four hundred (72,400), according to the 2010 federal census or any subsequent federal census; and

*(c)* At least two (2) miles north of the city of Cookeville, Tennessee;

(ii) Has been an LLC corporation since 2013;

(iii) Accommodates overnight lodging for up to fourteen (14) guests;

(iv) Is available for special events for up to five hundred (500) guests, including, but not limited to, weddings, receptions, corporate events, fundraisers, and reunions; and

(v) Has on-site parking for up to two hundred fifty (250) vehicles;

(JJJJ) A commercially operated facility possessing all of the following characteristics:

(i) Is located in a home built in 1892;

(ii) Is located on 3rd Avenue South;

(iii) Has eight thousand square feet (8,000 sq. ft.) of space including an outside courtyard;

(iv) Hosts on-site special events including weddings, receptions, and group gatherings;

(v) Has an adequate and sanitary kitchen; and

(vi) Is located in any county having a population of not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census;

(KKKK) A commercially operated facility containing all of the following characteristics:

(i) The facility is located on at least two hundred fifty (250) acres;

(ii) The facility provides camping and additional overnight accommodations;

(iii) The facility serves at least one (1) meal per day in a dining room that seats at least fifty (50) persons; and

(iv) The facility must be located within a commercial district which contains a former state penitentiary that was in operation for a minimum of fifty (50) years;

(LLLL) A commercially operated facility possessing each of the following characteristics:

(i) Has been in operation as an inn since November 3, 2002;

(ii) Is located within one-half (½) mile of a city park;

(iii) Has a total of eight (8) guest rooms in the main house;

(iv) Has a separate cottage that also houses at least one (1) transient suite, as well as workspaces and storage;

(v) Has at least one (1) kitchen on the premises and offers at least one (1) meal daily;

(vi) Has an open-air, outdoor patio suitable for the accommodation of wedding ceremonies and other events;

(vii) Has been designated historically significant by a county historical commission; and

(viii) Is located in any county having a population of more than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(MMMM) A commercially operated facility possessing all of the following characteristics:

(i) Has a restaurant open at least six (6) days a week with seating at tables for at least one hundred (100) persons;

(ii) Is licensed to sell beer;

(iii) Is located in a structure of not less than six thousand square feet (6,000 sq. ft.);

(iv) Is located on Drew Howard Road; and

(v) Is located in any county having a population of not less than fifty-six thousand (56,000) nor more than fifty-six thousand one hundred (56,100), according to the 2010 federal census or any subsequent federal census;

(NNNN) A commercially operated marina, resort, and recreational facility that:

(i) Is located between day markers fifteen (15) and sixteen (16) on Douglas Lake;

(ii) Operates not less than eighty-eight (88) covered slips, one hundred ten (110) open slips, twelve (12) transient slips, and six (6) house boat slips;

(iii) Operates a full-service store offering fuel, live bait and tackle, food, and beverages;

(iv) Is open not less than three hundred sixty-three (363) days per year;

(v) Rents pontoons, fishing boats, and paddle boards;

(vi) Operates a boat ramp that is open year-round;

(vii) Operates a recreational vehicle (RV) campground with not less than seventy (70) RV sites;

(viii) Operates not less than seven (7) rental properties; and

(ix) Is located in a county having a population of not less than fifty-one thousand four hundred (51,400) nor more than fifty-one thousand five hundred (51,500), according to the 2010 federal census or any subsequent federal census;

(OOOO) A commercially operated facility possessing each of the following characteristics:

(i) The facility operates a full service hotel;

(ii) The facility operates a restaurant with not less than thirty-two (32) seats in the dining room, eight (8) seats in the bar, and twenty-eight (28) outdoor seats located under a wrap-around porch;

(iii) The facility operates a nine-hole golf course and a golf lodge;

(iv) The facility serves as a wedding and events venue; and

(v) The facility is located within one (1) mile of Highway 41A and within two (2) miles of Lake O'Donnell in a county with a population of not less than forty-one thousand (41,000) and not more than forty-one thousand one hundred (41,100), according to the 2010 federal census or any subsequent federal census;

(PPPP) A commercially operated facility possessing all of the following characteristics:

(i) Has a restaurant open at least six (6) days a week with seating at tables for at least one hundred (100) persons and with additional seasonal seating on a patio for at least eighty (80) persons;

(ii) Is licensed to sell beer;

(iii) Is located in a structure of not less than two thousand five hundred square feet (2,500 sq. ft.);

(iv) Is located on Peavine Road; and

(v) Is located in any county having a population of not less than fifty-six thousand (56,000) nor more than fifty-six thousand one hundred (56,100), according to the 2010 federal census or any subsequent federal census;

(QQQQ)(i) A commercially operated facility having all of the following characteristics:

*(a)* The facility has approximately sixty-one thousand square feet (61,000 sq. ft.) of interior space;

*(b)* The facility is located not more than six thousand feet (6,000′) southwest of a federal interstate highway and not more than two hundred feet (200′) west of a federal highway;

*(c)* The property that the facility is located on is not less than five hundred seventy-five feet (575′) and not more than six hundred fifteen feet (615′) above sea level;

*(d)* The facility was originally constructed in 2017;

*(e)* The facility has one (1) permanent structure containing five (5) stories and includes at least one (1) commercial kitchen, an atrium with a glass ceiling having a height of at least thirty feet (30′) with live trees, and a rooftop deck with table service;

*(f)* The facility is located in or adjacent to a commercial real estate development containing approximately one hundred (100) specialty stores and eateries, and a movie theater;

*(g)* The facility is located within one hundred feet (100′) of a commercial bank that is a member of the federal deposit insurance corporation;

*(h)* The facility is approximately one thousand eight hundred twenty feet (1,820′) to the northeast of Sugartree Creek;

*(i)* The facility is approximately four hundred seventy feet (470′) to the northwest of the main building of a public high school that was

originally constructed before 1939;

*(j)* The facility is approximately one thousand four hundred fifty feet (1,450′) to the southwest of a public library that was originally constructed before 2000;

*(k)* The facility is located within a county with a metropolitan form of government having a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census; and

*(l)* The facility must not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(ii) The premises of any facility licensed under this subdivision (28)(QQQQ) means any or all of the property that constitutes the facility. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(RRRR) An agritourism facility possessing all of the following characteristics:

(i) Is located on at least three hundred (300) owned or leased acres;

(ii) Is located within a county having a metropolitan form of government and a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census;

(iii) Is bounded on one (1) side by at least three-quarters (¾) of a mile of the Cumberland River and on the other side by one-half (½) of a mile of a state scenic highway;

(iv) Has been certified as an organic farm for a period of at least three (3) years prior to the date of the initial application for a license;

(v) Is primarily zoned agricultural and operates an on-farm market on that site in addition to possessing substantial acreage of green space at the date of initial application for a license; and

(vi) Maintains meeting centers for community events;

(SSSS)(i) A commercially operated facility having all of the following characteristics:

*(a)* The facility is located on approximately six (6) acres of land that is adjacent to two (2) permanent structures which are owned by the same owner of the facility having approximately seventy thousand square feet (70,000 sq. ft.) of retail and office commercial space, and is located no more than three hundred feet (300′) from a federal highway;

*(b)* The facility has at least one (1) permanent structure with approximately sixty thousand square feet (60,000 sq. ft.) located no more than five hundred feet (500′) from a federal highway and less than two thousand five hundred feet (2,500′) south of a commercial railroad track. The structure is not less than five hundred twenty-five feet (525′) and not more than five hundred seventy-five feet (575′) above sea level. The structure was renovated in 2016 and 2017;

*(c)* The facility formerly housed a supermarket business that closed in 2012;

*(d)* The facility is approximately two thousand two hundred feet (2,200′) to the south of a facility that is accredited by the Association

of Zoos and Aquariums that is open to the public;

*(e)* The facility is located no more than seven thousand feet (7,000′) from a railyard of a Class 1 railroad, as defined by the surface transportation board of the United States department of transportation; and

*(f)* The facility is located in a county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (28)(SSSS) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The entire designated premises is covered under one (1) license issued under this subdivision (28)(SSSS). The licensee and any other entity in the facility licensed under chapter 4 of this title may, upon filing notice with the commission, share a common licensed area on the premises of the facility. The commission shall enforce chapter 4 of this title against each licensee on the premises of the facility and shall not cite, penalize, or take any other adverse action against a licensee for any violation committed by another licensee within a common licensed area on the premises of the facility. There is a rebuttable presumption of liability for a specific licensee for any underage sale based on the specific type of glass or the brand on the cup provided to the minor. In the absence of a glass or cup identifying the licensee, the commission may determine which licensee to cite for an underage sale. If the commission is unable to determine which licensee committed a violation after conducting a reasonable investigation, the commission may issue a citation to one (1) or more licensees that share the common licensed area where the violation occurred;

(iii) The licensee and any other licensed entity in the facility that holds a license under this chapter may store beer and alcoholic beverages in a central storage location in the facility. Each licensed entity shall store its inventory of beer and alcoholic beverages in a separately locked cage or other storage area;

(iv) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (28)(SSSS) means, for beer permitting purposes, any or all of the property that constitutes the facility. The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. The entire designated premises is covered under one beer permit issued under chapter 5 of this title. The beer permittee and any other entity in the facility that holds a beer permit issued by the local beer board may, upon filing notice with the beer board, share a common permitted area on the premises of the facility. The beer board shall enforce chapter 5 of this title against each permittee on the premises of the facility and shall not cite, penalize, or take any other adverse action

against a permittee for any violation committed by another permittee within a common permitted area on the premises of the facility. There is a rebuttable presumption of liability for a specific permittee for any underage sale based on the specific type of glass or the brand on the cup provided to the minor. In the absence of a glass or cup identifying the permittee, the beer board may determine which permittee to cite for an underage sale. If the beer board is unable to determine which permittee committed a violation after conducting a reasonable investigation, the beer board may issue a citation to one (1) or more permittees that share the common permitted area where the violation occurred;

(v) Notwithstanding § 57-3-806(e), the owner of the facility may prohibit or restrict, through its lease or other agreements with other businesses, the on-premise sale of beer or alcoholic beverages by other businesses at the facility;

(vi) Notwithstanding § 57-4-101(n), table service is not required for the service of alcoholic beverages or beer as authorized by this subdivision (28)(SSSS); and

(vii) The facility, landlord, or any licensee shall provide periodic security for the entire licensed premises;

(TTTT)(i) A commercially operated recreational facility, whether open to the public or limited to members and guests of a corporation, limited liability company, or association, or of a development in which it is located, owned, and operated by a corporation, limited liability company, or association, having all of the following characteristics:

*(a)* The facility is located in or adjacent to a residential real estate development containing between seven hundred (700) and eight hundred (800) acres, a portion of which was formerly the home of a music industry entertainer who began her career with a successful recording at the age of thirteen (13);

*(b)* The facility has at least one (1) permanent structure, open to the public or to members and their guests, having at least two thousand square feet (2,000 sq. ft.);

*(c)* The closest boundary of the real estate development in which the facility is located must be located no more than three thousand feet (3,000′) from the right-of-way of Interstate 840 and situated between Cox and Patton roads;

*(d)* The facility maintains a golf course having at least eighteen (18) holes, which has a current or past golf professional on staff at the golf course;

*(e)* The facility has at least one (1) room or rooms that are regularly kept, used, and maintained as a place where meals are regularly served, with adequate and sanitary kitchen facilities and seating at tables for at least thirty (30) persons;

*(f)* The facility is located on property with elevations that vary between less than seven hundred fifty feet (750′) above sea level to more than nine hundred fifty feet (950′) above sea level;

*(g)* The facility is located in a county having a population of not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census;

*(h)* The planning commission of a county in which the facility is located has approved of subdividing the property into more than four hundred (400) residential lots that can be offered for sale for home construction; and

*(i)* The facility does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(ii) The premises of any facility licensed under this subdivision (28)(TTTT) shall mean any or all of the property that constitutes the facility, including swimming pools, tennis courts, golf courses, paths, and road crossings. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(UUUU)(i) A commercially operated facility having all of the following characteristics:

*(a)* The facility is located on approximately twenty-seven (27) acres of land that is adjacent to a tributary of Arrington Creek and located along U.S. Route 96;

*b)* The facility has at least one (1) permanent structure constructed in 2016 with at least eight thousand four hundred square feet (8,400 sq. ft.) of climate-controlled space;

*(c)* The facility is on property that has a lake with an island having approximately nine thousand square feet (9,000 sq. ft.) of space that contains outdoor amenities, including a sound system;

*(d)* The facility is located in a county having a population of not less than one hundred eighty-three thousand one hundred (183,100) and not more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census; and

*(e)* The facility does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(ii) The premises of any facility licensed under this subdivision (28)(UUUU) means any or all of the property that constitutes the facility, including a barn, man-made island, paths, and road crossings. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(VVVV)(i) A commercially operated facility possessing the following characteristics:

*(a)* The facility is located on at least twenty (20) acres;

*(b)* The facility provides overnight accommodations with no less than fifty (50) guest rooms;

*(c)* The facility serves at least one (1) meal per day in a dining room that seats at least seventy-five (75) persons;

*(d)* The facility is located on property that is within one-quarter (1/4) mile of the intersection of Carters Creek Pike and Southall Road; and

*(e)* The facility is located in a county having a population of not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (28)(VVVV) means any or all of the property that constitutes the facility, including restaurants, cabins, lodges, clubhouses, swimming pools, tennis courts, golf courses, paths, and road crossings. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(iii) Any facility licensed under this subdivision (28)(VVVV) may be issued one (1) or more licenses for consumption on the premises;

(iv) Any facility licensed under this subdivision (28)(VVVV) may seek an additional license as a caterer under subdivision (6);

(v) Any facility licensed under this subdivision (28)(VVVV) may hold any of the licenses authorized under this subdivision (28)(VVVV) or may grant a franchise to one (1) or more entities for any or all such licenses;

(vi) Any facility licensed under this subdivision (28)(VVVV) may deliver sealed bottles to any area within the licensed premises of the facility;

(WWWW) A commercially operated facility possessing each of the following characteristics:

(i) The facility operates a restaurant with not less than fifty (50) seats in the dining room, not less than six (6) seats at the bar, and outdoor seating on the wrap-around porch;

(ii) The restaurant is equipped to serve breakfast, lunch, and dinner and does so on a regular basis;

(iii) The facility operates an eighteen-hole golf course and has a large, log cabin style clubhouse with not less than seven thousand square feet (7,000 sq. ft.);

(iv) The facility serves as a wedding and event venue; and

(v) The facility is located not more than six (6) miles from Interstate 40 and Interstate 840 and is situated in a county having a population of not less than one hundred thirteen thousand nine hundred (113,900) and not more than one hundred fourteen thousand (114,000), according to the 2010 federal census and any subsequent federal census;

(XXXX) A facility operated either commercially or on a nonprofit basis that:

(i) Is a community theatre and event center that officially opened in 1934;

(ii) Was renovated and reopened in 1974;

(iii) As of April 12, 2018, operates as a 501(c)(3) nonprofit organization;

(iv) Is a historic community and private event venue; and

(v) Is located in a municipality with a population of not less than fifteen thousand sixty (15,060) and not more than fifteen thousand sixty-nine (15,069), according to the 2010 and any subsequent federal census;

(YYYY) A commercially operated facility that is:

(i) Located on approximately two hundred forty-seven (247) acres, subject to a conservation easement on approximately two hundred (200) of the acres;

(ii) Located on a peninsula adjacent to the Tennessee River;

(iii) Located on property across which an abandoned railroad bed lies;

(iv) A venue for weddings, meetings, and events; and

(v) Located in a county with a population of not less than one hundred twenty-three thousand one (123,001) nor more than one hundred twenty-three thousand one hundred (123,100), according to the 2010 or any subsequent federal census;

(ZZZZ) A commercially operated facility that:

(i) Is located on at least sixty (60) acres of land which came from an original land grant with a home on the property built in 1781;

(ii) Has a stream with a dam on the premises;

(iii) Has a restaurant that was primarily built from two wrecked barns, that serves a full menu of hot foods at least four (4) days per week, that possesses a full service kitchen, that has seating inside for at least sixty (60) persons at tables, and that has outdoor patio seats for at least twenty-five (25) persons;

(iv) Has a pavilion that seats at least one hundred twenty-five (125) persons;

(v) Hosts various events, including, but not limited to, weddings, civic and other club meetings, church groups, and car shows; and

(vi) Is located in a county with a population of not less than fifty-six thousand eight hundred (56,800) and not more than fifty-six thousand nine hundred (56,900), according to the 2010 or any subsequent federal census;

(AAAAA) A commercially operated facility that:

(i) Is located on approximately fifty-five (55) to seventy-five (75) acres;

(ii) Is located on the banks of the Powell River;

(iii) Has a restaurant that serves a full menu of hot foods at least four (4) days per week, that possesses a full service kitchen which includes at least a stove top, an oven, a refrigerator, and a freezer, that has at least three thousand five hundred square feet (3,500 sq. ft.) inside, that has an outdoor deck of at least one thousand five hundred square feet (1,500 sq. ft.), that has seating inside for at least eighty (80) persons at tables, and that has outside deck seating for at least eighty (80) persons at tables;

(iv) Possesses a beer license;

(v) Makes available kayaks and tubes for rent for floating on the Powell River; and

(vi) Is located in a county with a population of not less than thirty-two thousand two hundred (32,200) and not more than thirty-two thousand

three hundred (32,300), according to the 2010 or any subsequent federal census;

(BBBBB)(i) A commercially operated facility that:

*(a)* Is located on at least one-half (½) acre of land with at least one hundred sixty feet (160′) of road frontage and is in a building with a convenience store with separate entrances;

*(b)* Has a restaurant with a license to serve beer, and which serves a full menu of hot foods at least five (5) days per week, except for seasonal closings and renovations, and possesses a full-service kitchen with seating in the main dining area for at least fifty (50) persons at tables, a bar seating area of at least forty (40) persons at the bar and tables, an outdoor patio area with seats and picnic tables for at least forty (40) persons, an outdoor tiki bar with seating for at least eight (8) persons at the bar, and a covered porch off the bar area with at least eight (8) seats, and which hosts live music on a regular weekly basis;

*(c)* Has an enclosed recreational and events building, with its own entrances, including garage doors, of at least two thousand three hundred square feet (2,300 sq. ft.), which is fully plumbed and in which pool, darts, and corn hole are played, and which hosts various private events and ticketed public events with an admission fee; and

*(d)* Is located in a county with a population of not less than thirty-two thousand two hundred (32,200) nor more than thirty-two thousand three hundred (32,300), according to the 2010 or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (28)(BBBBB) means any and all of the property that constitutes the facility. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(CCCCC)(i) A commercially operated facility that:

*(a)* Is located on at least one hundred seventy-five (175) acres of land that is situated on Pennington Bend adjacent to the Cumberland River;

*(b)* Serves as a venue for weddings, meetings, tournaments, and events;

*(c)* Includes an 18-hole golf course, a clubhouse with a restaurant that serves lunch and dinner with seating for at least sixty (60) guests, a golf shop, locker rooms, a covered outdoor pavilion with seating for at least two hundred (200) guests, and meeting rooms;

*(d)* Is located less than one (1) mile from a hotel containing at least two thousand eight hundred (2,800) rooms, six hundred forty thousand square feet (640,000 sq. ft.) of meeting space, and nine (9) acres of indoor gardens;

*(e)* Is located in a county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census; and

*(f)* Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(ii) The premises of any facility licensed under this subdivision (28)(CCCCC) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The entire designated premises is covered under one (1) license issued under this subdivision (28)(CCCCC);

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (28)(CCCCC) means, for beer permitting purposes, any or all of the property that constitutes the facility. The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. The entire designated premises is covered under one (1) beer permit issued under chapter 5 of this title;

(iv) Any facility licensed under this subdivision (28)(CCCCC) may seek an additional license as a caterer under § 57-4-102(6); and

(v) Any facility licensed under this subdivision (28)(CCCCC) may hold any of the licenses authorized under this subdivision (28)(CCCCC) and may grant a franchise to one (1) or more entities for any or all such licenses;

(DDDDD)(i) A commercially operated facility having all of the following characteristics:

*(a)* The facility is located on approximately three hundred and sixty (360) acres of land that is adjacent to a reservoir of the Tennessee River created by Watts Bar Dam;

*(b)* The facility is located less than two (2) miles west of an area designated as a wildlife management area by the Tennessee fish and wildlife commission that is open to the public;

*(c)* The facility is located within five (5) miles of Highway 72 in a county with a population of not less than fifty-four thousand one hundred (54,100) and not more than fifty-four thousand two hundred (54,200), according to the 2010 federal census or any subsequent federal census;

*(d)* The facility is approximately twelve thousand feet (12,000′) southeast of a private airport identified by the federal aviation administration;

*(e)* The property that the facility is located on is not less than seven hundred twenty-five feet (725′) above sea level nor more than one thousand feet (1000′) above sea level;

*(f)* The facility includes a restaurant, day spa, tennis courts, barn, farmhouse, fish pond, boat dock, hiking trails, cottages, and a full service inn, with at least twenty (20) rooms for lodging;

*(g)* The facility serves as a venue for weddings, meetings, conferences, and events; and

*(h)* The restaurant at the facility serves breakfast and dinner and

caters for events, with seating for at least two hundred (200) guests;

(ii) The premises of any facility licensed under this subdivision (28)(DDDDD) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The entire designated premises is covered under one (1) license issued under this subdivision (28)(DDDDD);

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (28)(DDDDD) means for beer permitting purposes any or all of the property that constitutes the facility. The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. The entire designated premises is covered under one (1) beer permit issued under chapter 5 of this title; and

(iv) The requirements of § 57-5-105(b)(1) do not apply to any facility licensed under this subdivision (28)(DDDDD);

(EEEEE) A commercially operated facility having the following characteristics:

(i) The facility was built in 1894 and has been restored to represent its original features;

(ii) The facility has a seating capacity for approximately one hundred (100) persons;

(iii) The facility is a venue for weddings, receptions, reunions, and other similar events, and opened for business in January of 2017; and

(iv) The facility is located in a county with a population of not less than fifty-two thousand seven hundred (52,700) and not more than fifty-two thousand eight hundred (52,800), according to the 2010 or any subsequent federal census;

(FFFFF) A commercially operated facility possessing each of the following characteristics:

(i) The facility is a restaurant floating on Tims Ford Lake at a commercially operated marina on Sail Away Lane;

(ii) The facility is accessible by both water and land, with docking areas for watercraft and parking areas for vehicles;

(iii) The facility is licensed to sell beer; and

(iv) The facility is located in a county having a population of not less than forty-one thousand (41,000) and not more than forty-one thousand one hundred (41,100), according to the 2010 or any subsequent federal census;

(GGGGG)(i) A commercially operated recreational facility, whether operated by a corporation, limited liability company, or association, having all of the following characteristics:

*(a)* The facility is located on Cordell Hull Lake on property leased from the United States army corps of engineers;

*(b)* The facility has at least one hundred twenty (120) boat slips ranging in size up to sixty feet (60′) in length;

*(c)* The facility includes a full-service restaurant open to the public;

*(d)* The facility maintains at least four (4) two-bedroom cabins and at least four (4) hotel rooms available for rent to the public;

*(e)* The facility operates a full-service campground with at least twenty (20) campsites with septic, electric, and potable water hook-ups;

*(f)* The facility is located within a county having a population of not less than eleven thousand six hundred (11,600) nor more than eleven thousand seven hundred (11,700), according to the 2010 federal census or any subsequent federal census; and

*(g)* The facility does not discriminate against any patron on the basis of age, gender, sexual orientation, race, religion, or national origin;

(ii) The premises of any facility licensed under this subdivision (28)(GGGGG) includes all of the property constituting the facility. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(HHHHH)(i) A commercially operated facility that:

*(a)* Has a full-service restaurant that stands alone, or is part of a larger building or complex, but has its own entrance;

*(b)* Has a full-service kitchen that possesses at least one (1) of each the following: a stove; an oven; a refrigerator; and a freezer;

*(c)* Is open at least five (5) days per week, and serves at least twelve (12) meals each week;

*(d)* Has seating for at least seventy-five (75) persons at tables and has seating in the bar area at the bar, on stools around tables, or chairs around tables;

*(e)* Is located on at least eighteen (18) acres; and

*(f)* Is located in a county having a population of not less than thirty-two thousand two hundred (32,200) and not more than thirty-two thousand three hundred (32,300), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (28)(HHHHH) means any or all of the property that constitutes the facility; and

(iii) The property described under this subdivision (28)(HHHHH) may be divided into individual parcels or groups of parcels, and any commercial facility located on any of these parcels that meets the criteria in this subdivision (28)(HHHHH) is deemed to be a premier type tourist resort for purposes of obtaining a license;

(IIIII) A commercially operated facility possessing each of the following characteristics:

(i) The facility is located within six and one-half (6.5) miles of Interstate 24 in any county having a population of not less than thirteen thousand seven hundred (13,700) nor more than thirteen thousand seven hundred fifty (13,750), according to the 2010 federal census or any subsequent federal census;

(ii) The facility is located on Charlie Roberts Road;

(iii) The facility is licensed to sell beer; and

(iv) The facility is a music, concert, and entertainment venue located in a cave that is home to a public television program;

(JJJJJ) A commercially operated restaurant that:

(i) Was built in 1892;

(ii) Has not less than one thousand two hundred ninety-five square feet (1,295 sq. ft.);

(iii) Has seating for not less than thirty-two (32) persons;

(iv) Is located not more than five hundred feet (500′) from Dobbins Branch; and

(v) Is located in a county with not less than one hundred eighty-three thousand one hundred (183,100) and not more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 or any subsequent federal census;

(KKKKK) A commercially operated facility that:

(i) Was built in 1977;

(ii) Operates a market and country store;

(iii) Is located on approximately three and one-half (3 ½) acres;

(iv) Is located not more than three thousand feet (3,000′) from the junction of the Harpeth River and Wilkie Branch;

(v) Serves prepared food on the premises; and

(vi) Is located in a county with not less than one hundred eighty-three thousand one hundred (183,100) and not more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 or any subsequent federal census;

(LLLLL) [Deleted by 2021 amendment.]

(MMMMM) A commercially operated facility that:

(i) Is a resort comprised of approximately four hundred sixty (460) acres adjacent to the Cumberland River;

(ii) Operates two (2) eighteen-hole championship golf courses;

(iii) Operates a restaurant that seats forty-six (46) persons;

(iv) Is utilized as a venue for weddings and similar events with garden seating for up to two hundred (200) persons, banquet room seating for up to one hundred fifty (150) persons, and gallery seating for up to sixty (60) persons;

(v) Was originally established in 1986; and

(vi) Is located in a county with a metropolitan form of government and a population of not less than five hundred thousand (500,000) persons, according to the 2010 or any subsequent federal census;

(NNNNN) A commercially operated facility that:

(i) Operates a restaurant with seating for approximately fifty (50) patrons, with an extended porch for additional seating;

(ii) Operates an event center that serves as a venue for weddings, concerts, and similar events;

(iii) Is located within one (1) mile of Dale Hollow Lake, and within one hundred feet (100') of the Dale Hollow Quarry;

(iv) Is located on approximately eighty-five (85) acres; and

(v) Is located in a county with a population of not less than seven thousand eight hundred fifty-one (7,851) and not more than seven thousand eight hundred sixty-five (7,865), according to the 2010 or any subsequent federal census;

(OOOOO)(i) A commercially operated facility having all of the following characteristics:

*(a)* The facility is located on approximately twenty-two (22) acres of land;

*(b)* The facility is located less than three (3) miles south of an area designated as a state park consisting of approximately nine hundred (900) acres that is open to the public and adjacent to a state forest having at least nine thousand (9,000) acres;

*(c)* The facility is located within five (5) miles of Interstate 840 in a county with a population of not less than one hundred thirteen thousand nine hundred fifty (113,950) and not more than one hundred forty thousand (140,000), according to the 2010 federal census or any subsequent federal census;

*(d)* The facility is approximately fifteen thousand feet (15,000 ft.) east of a private motor racing complex originally constructed in approximately 2001 with a seating capacity of more than ten thousand (10,000);

*(e)* The facility includes a cabin, pier, bridge, amphitheater, commercial kitchen, shop, pond, hall with an adjacent courtyard, a climate-controlled event center, and a manor constructed in the 1830s having at least seven (7) guest rooms for lodging;

*(f)* The facility serves as a venue for weddings, meetings, conferences, and events; and

*(g)* The restaurant at the manor serves breakfast and dinner, and caters for events, with seating for at least forty-five (45) guests. The facility has two (2) event centers that can accommodate at least two hundred (200) guests at each center;

(ii) The premises of any facility licensed under this subdivision (28)(OOOOO) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The entire designated premises is covered under one (1) license issued under this subdivision (28)(OOOOO);

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (28)(OOOOO) means for beer permitting purposes any or all of the property that constitutes the facility. The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. The entire designated premises is covered under one (1) beer permit issued under chapter 5 of this title;

(iv) The requirements of § 57-5-105(b)(1) do not apply to any facility licensed under this subdivision (28)(OOOOO); and

(v) Any facility licensed under this subdivision (28)(OOOOO) may seek an additional license as a caterer pursuant to subdivision (6);
(PPPPP)(i) A commercially operated facility having all of the following characteristics:

*(a)* Is located on Norris Lake;

*(b)* Has a marina with not less than one hundred seventy (170) slips;

*(c)* Has not less than seven (7) houses and twenty-two (22) floating houses available for rent;

*(d)* Has a restaurant with indoor and outdoor seating for at least one hundred seventy (170) patrons;

*(e)* Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

*(f)* Is located in any county having a population of not less than forty thousand seven hundred (40,700) nor more than forty thousand eight hundred (40,800), according to the 2010 federal census or any subsequent federal census; and

(ii) The premises of any facility licensed under this subdivision (28)(PPPPP) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The entire designated premises is covered under one (1) license issued under this subdivision (28)(PPPPP);
(QQQQQ)(i) A commercially operated facility having all of the following characteristics:

*(a)* Operates a hotel with sixteen (16) guest rooms, with each floor other than the first floor equipped with a chef's kitchen, living room with a fireplace, and dining table;

*(b)* Operates a catering kitchen for events on the premises;

*(c)* Has event space of over eight hundred square feet (800 sq. ft.) located on the first and fourth floors;

*(d)* Is a venue for weddings, dinner parties, business retreats, reunions, and similar events; and

*(e)* Is located in a city with a metropolitan form of government and a population of not less than five hundred thousand (500,000), according to the 2010 or any subsequent federal census; and

(ii) The premises of any facility licensed under this subdivision (28)(QQQQQ) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The entire designated premises are covered under one (1) license issued under this subdivision (28)(QQQQQ);
(RRRRR)(i) A commercially operated facility that:

*(a)* Is an event and music venue that holds concerts and hosts a farmers market;

*(b)* Is located in a building built in the early 1900s by David Hugh Corlette;

*(c)* Contains a specialty grocery store and offers fresh food service, with seating for approximately eighteen (18) patrons;

*(d)* Began operating in August of 2018;

*(e)* Has approximately three thousand three hundred square feet (3,300 sq. ft.) of commercial floor space;

*(f)* Sits adjacent to Horton Highway;

*(g)* Is within five hundred feet (500') of a community center and artsitorium; and

*(h)* Is located in a county with a population of not less than one hundred eighty-three thousand one hundred (183,100) and not more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 and any subsequent federal census; and

(ii) The premises of a facility licensed under this subdivision (28)(RRRRR) means any or all of the property that constitutes the facility. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(SSSSS) A commercially operated facility possessing each of the following characteristics:

(i) Has a marina with at least eighty-five (85) boat slips on Dale Hollow Lake at the confluence of the East and West Forks of the Obey River;

(ii) Has a restaurant with seating for approximately eighty (80) patrons;

(iii) Has assorted boats and at least twelve (12) cabins available for rent; and

(iv) Is located in a county having a population of not less than five thousand (5,000) and not more than five thousand one hundred (5,100), according to the 2010 federal census or any subsequent federal census;

(TTTTT) A commercially operated facility possessing each of the following characteristics:

(i) Is located approximately one (1) mile from Dale Hollow Lake, containing an area of ninety (90) acres;

(ii) Has a six-thousand-square-foot barn with a commercial kitchen used for events;

(iii) Has at least two (2) cabins for rent; and

(iv) Is located on Bolestown Road in a county having a population of not less than five thousand (5,000) and not more than five thousand one hundred (5,100), according to the 2010 federal census or any subsequent federal census;

(UUUUU) A commercially owned marina containing all of the following characteristics:

(i) Is located on at least twenty-five (25) acres of land located off of Livingston Boat Dock Road in a county having a population of not less than seven thousand eight hundred fifty-one (7,851) and not more than seven thousand eight hundred sixty-five (7,865), according to the 2010 federal census or any subsequent federal census;

(ii) Has a two-story restaurant that seats at least one hundred eighty

(180) people;

(iii) Has at least three hundred fifty-five (355) boat slips and a full-service marina on Dale Hollow Lake; and

(iv) Includes at least ten (10) rental cabins;

(VVVVV) A commercially owned marina containing all of the following characteristics:

(i) Is located on at least forty (40) acres of land located off of state highway 294 in a county having a population of not less than seven thousand eight hundred fifty-one (7,851) and not more than seven thousand eight hundred sixty-five (7,865), according to the 2010 federal census or any subsequent federal census;

(ii) Has a restaurant that seats at least fifty (50) people;

(iii) Has approximately three hundred fifty (350) boat slips and a full-service marina on Dale Hollow Lake; and

(iv) Includes at least eleven (11) rental cabins;

(WWWWW)(i) A commercially operated facility that:

*(a)* Is located on approximately two hundred seventy (270) acres of land and sits approximately nineteen (19) miles south of highway 24 in a county with a population of not less than forty-five thousand (45,000) and not more than forty-five thousand one hundred (45,100), according to the 2010 and any subsequent federal census;

*(b)* Is located on property that is separately licensed to produce, bottle, and store distilled spirits;

*(c)* Is located on property that offers tours and tastings, as well as the retail sale of merchandise and bottles of spirits and contains the global headquarters for a premium Tennessee whiskey company;

*(d)* Is located on property that includes a welcome center, three (3) tasting rooms, distillery building, barrel storage facilities, a pond, museum, bar, restaurant, commercial kitchen, miniature golf course, and live music venue;

*(e)* Is located on property that serves as a horse breeding and training facility;

*(f)* Is located on property that is a production site and a venue for weddings, meetings, conferences, concerts, and special events; and

*(g)* Has a restaurant that serves lunch and dinner, and caters for events with seating for at least forty-five (45) guests;

(ii) The commission and any beer board having jurisdiction over the facility may issue one (1) or more licenses to one (1) or more different persons or entities that meet the qualifications of this subdivision (28)(WWWWW) provided, that the persons or entities obtaining licenses under this subdivision (28)(WWWWW)(ii) and any manufacturer licensed under § 57-3-202 comply with the requirements of § 57-4-110;

(iii) The premises of a facility licensed under this subdivision (28)(WWWWW) means any or all of the property that constitutes the facility; provided, that the premises must not include the premises of a manufacturer licensed under § 57-3-202 or any other facility licensed under this subdivision (28)(WWWWW), except as authorized pursuant to § 57-4-101(p). The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which

may be amended by the licensee filing a new drawing; and

(iv) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (28)(WWWWW) means for beer permitting purposes any or all of the property that constitutes the facility; provided, however, that the premises must not include the premises of a licensee under § 57-3-202 or any other facility licensed under this subdivision (28)(WWWWW), except as authorized pursuant to § 57-4-101(p). The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing;

(XXXXX) A commercially operated restaurant, resort, and boat dock with fuel having the following characteristics:

(i) Possesses at least twenty (20) acres of U.S. corps of engineers leased water and water frontage on Old Hickory Lake and two thousand feet (2000′) of river channel at the southeast corner of the confluence of Old Hickory Lake and State Highway 109;

(ii) Has operated for at least sixty (60) straight years on this site;

(iii) Possesses at least sixty-five (65) full service paved camp sites;

(iv) Possesses boat slips for at least two hundred fifty (250) boats; and

(v) Is located on at least ten (10) acres of real property at that site;

(YYYYY) A commercially operated facility that:

(i) Includes an eighteen-hole golf course, a seven-thousand-square-foot clubhouse with a pro shop, banquet room, and restaurant with seating for at least forty (40) patrons;

(ii) Contains at least one hundred (100) acres and less than two hundred (200) acres; and

(iii) Is located less than one (1) mile from Fort Loudon Lake on Kingston Pike in a county having a population of not less than four hundred thirty-two thousand two hundred (432,200) nor more than four hundred thirty-two thousand three hundred (432,300), according to the 2010 federal census or any subsequent federal census;

(ZZZZZ) A commercially operated independent and assisted living facility possessing the following characteristics:

(i) Is located in a county having a population of not less than nine hundred thousand (900,000), according to the 2010 federal census or any subsequent federal census;

(ii) Has both independent and assisted living facilities available and provides memory care and respite service;

(iii) Has several full-service restaurants and dining rooms to service the residents but that are also open to the public and that serve three (3) chef-prepared meals per day;

(iv) Has a complete wellness and fitness facility available that accommodates physical and occupational therapy;

(v) Has complete recreational facilities for its residents;

(vi) Has not less than one hundred thirty-five (135) individual living unit apartments for residents;

(vii) Does not discriminate against any patron on the basis of gender,

race, religion, or national origin; and

(viii) Has a full-service barber and beauty salon;

(AAAAAA)(i) A commercially operated facility having all of the following characteristics:

*(a)* The facility is located on approximately five hundred (500) acres of land;

*(b)* The facility is located less than three (3) miles north of an area designated as The South Cumberland State Park consisting of approximately thirty thousand (30,000) acres that is open to the public;

*(c)* The facility is located within five (5) miles of Interstate 24 in a county having a population of not less than thirteen thousand seven hundred (13,700) nor more than thirteen thousand seven hundred fifty (13,750), according to the 2010 federal census or any subsequent federal census;

*(d)* The facility includes two (2) cabins, a tiny house, a stage, three (3) fishing ponds, a check-in facility, a bathhouse, fifty (50) RV hookups, multiple hiking trails, frisbee golf, and a wedding pavilion;

*(e)* The facility serves as a venue for weddings, meetings, and conferences; and

*(f)* The facility has two (2) event centers that can accommodate at least one hundred fifty (150) guests at each center;

(ii) The premises of any facility licensed under this subdivision (28)(AAAAAA) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The entire designated premises is covered under one (1) license issued under this subdivision (28)(AAAAAA);

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (28)(AAAAAA) means, for beer permitting purposes, any or all of the property that constitutes the facility. The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. The entire designated premises is covered under one (1) beer permit issued under chapter 5 of this title;

(iv) The requirements of § 57-5-105(b)(1) do not apply to any facility licensed under this subdivision (28)(AAAAAA); and

(v) Any facility licensed under this subdivision (28)(AAAAAA) may seek an additional license as a caterer under this chapter;

(BBBBBB) A commercially operated facility having the following characteristics:

(i) Contains a restaurant in a free-standing building with retail space and consisting of approximately three thousand square feet (3,000 sq. ft.); and

(ii) Is located at the intersection of state highways 46 and 100 in a county having a population of not less than twenty-four thousand six hundred seventy-six (24,676) nor more than twenty-four thousand seven

hundred (24,700), according to the 2010 federal census or any subsequent federal census;

(CCCCCC) A commercially operated facility having the following characteristics:

(i) Contains a full-service restaurant with seating for at least twenty-nine (29) patrons inside and fourteen (14) patrons outside and that does not use a freezer or a fryer; and

(ii) Is located less than one thousand feet (1,000′) from a United States Post Office and approximately one mile (1 mi.) from a state natural area featuring a small remnant forest having old growth forest characteristics in a county having a population of not less than twenty-four thousand six hundred seventy-six (24,676) nor more than twenty-four thousand seven hundred (24,700), according to the 2010 federal census or any subsequent federal census;

(DDDDDD) A commercially operated facility having the following characteristics:

(i) Contains a full-service restaurant that features live music and that is adjacent to a custom motorcycle shop; and

(ii) Is located less than three hundred feet (300′) from a United States Post Office and approximately one mile (1 mi.) from a state natural area featuring a small remnant forest having old growth forest characteristics in a county having a population of not less than twenty-four thousand six hundred seventy-six (24,676) nor more than twenty-four thousand seven hundred (24,700), according to the 2010 federal census or any subsequent federal census;

(EEEEEE) A commercially operated facility possessing each of the following characteristics:

(i) Contains a restaurant that has been in operation since at least 2012 with at least forty-two (42) seats inside and seventy-five (75) seats outside;

(ii) Contains a banquet hall that is used for weddings, banquets, meetings, and other events and is at least three thousand square feet (3,000 sq. ft.); and

(iii) Is located approximately seven hundred (700) yards from state highway 641 South and is adjacent to a winery in a county having a population of not less than thirty-two thousand three hundred one (32,301) nor more than thirty-two thousand four hundred (32,400), according to the 2010 federal census or any subsequent federal census;

(FFFFFF) A commercially operated marina having the following characteristics:

(i) Has open and covered boat slips, a store, a restaurant, and a fuel dock;

(ii) Has cabins and RV campsites available for rent; and

(iii) Is located on Cordell Hull Lake approximately three thousand feet (3,000′) from the confluence of Defeated Creek and the Cumberland River in a county having a population of not less than nineteen thousand one hundred fifty-one (19,151) nor more than nineteen thousand two hundred (19,200), according to the 2010 federal census or any subsequent federal census;

(GGGGGG) A commercially operated restaurant having the following characteristics:

(i) Has a structure of not less than two thousand square feet (2,000 sq. ft.) that has seating at tables and at the bar for at least ninety-six (96) guests and serves at least one (1) meal a day seven (7) days a week, with the exception of holidays, vacations, and periods of redecorating; and

(ii) Is located approximately two thousand five hundred feet (2,500′) from two (2) islands in Old Hickory Lake in a county having a population of not less than one hundred thirteen thousand nine hundred (113,900) nor more than one hundred fourteen thousand (114,000), according to the 2010 federal census or any subsequent federal census;

(HHHHHH) A commercially operated marina possessing each of the following characteristics:

(i) Is located on Norris Lake in a county having a population of not less than forty thousand seven hundred (40,700) nor more than forty thousand eight hundred (40,800), according to the 2010 federal census or any subsequent federal census;

(ii) Has at least sixty (60) covered boat slips and at least twelve (12) uncovered boat slips;

(iii) Has a ship store offering gasoline and other boating supplies and a restaurant with seating for at least eighty (80) patrons, including indoor and outdoor seating; and

(iv) Is located approximately one and one-half (1½) miles from a county-owned, public-use airport with a runway four thousand feet (4,000′) in length;

(IIIIII)(i) A commercially operated facility that:

*(a)* Has a limestone quarry that sits approximately one thousand seven hundred feet (1,700′) southeast of Interstate 65, two thousand seven hundred feet (2,700′) south of Interstate 840, and four and six-tenths (4.6) miles north of the junction of US 431 and State Route 247;

*(b)* Is a venue for live music, weddings, meetings, and other events;

*(c)* Serves or sells food to patrons;

*(d)* Has an outdoor amphitheater with a capacity for at least seven thousand (7,000) guests;

*(e)* Has exclusive or non-exclusive rights to possess or use a commercial kitchen or service kitchen where food is staged and served; and

*(f)* Is located in a county having a population of not less than one hundred eighty-three thousand one hundred (183,100) and not more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (28)(IIIIII) means any and all of the property that constitutes the facility, including all enclosed and outdoor areas of the property. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the

licensee filing a new drawing;

(iii) Any facility as described in this subdivision (28)(IIIIII), may hold any of the licenses authorized under this subdivision (28)(IIIIII) and shall have the privilege of granting a franchise to one (1) or more entities authorizing such an entity to provide food or beverages, including alcoholic beverages and beer, on its premises; provided, that any separate entity must apply to the commission for a separate license, except for an entity already licensed under subdivision (6). For purposes of this subdivision (28)(IIIIII)(iii), the licensee is not required to have exclusive control of a commercial kitchen or any service kitchen, where food is staged and served, as a condition of the license;

(iv) Any licensed entity that holds a license under this subdivision (28)(IIIIII) may store alcoholic beverages and beer at one (1) or more storage locations in the facility and in any commercial kitchen or service kitchen within the facility; provided, that each licensed entity shall store its inventory of alcoholic beverages and beer in a separately locked cage or other storage area;

(v) Notwithstanding § 57-4-101(p), any facility licensed under this subdivision (28)(IIIIII) may serve wine, high gravity beer and beer in its original container, and spirit-based beverages in original containers that do not exceed three hundred seventy-five milliliters (375 ml) and an alcohol content that does not exceed fifteen percent (15%) by volume, or in unlabeled cups or glassware, or in labeled cups or glassware identifying the licensee as the entity selling the alcoholic beverages or beer for on-premise consumption anywhere within the facility. Any franchisee holding a license under this subdivision (28)(IIIIII) shall comply with the requirements of § 57-4-101(p); provided, however, that a sticker identifying the licensee, which is reasonably designed to stay affixed to a container, cup, or glassware, must comply with § 57-4-101(p);

(vi) The commission shall enforce chapter 4 of this title against each licensee under this subdivision (28)(IIIIII) and shall not cite, penalize, or take any other adverse action against a licensee for any violation committed by another licensee on the licensed premises. There is a rebuttable presumption of liability for a specific licensee for any underage sale or other violation based on the unlabeled or labeled container, or unlabeled or labeled cup or glassware, as required pursuant to subdivision (28)(IIIIII)(v), provided to the minor. In the absence of a container, glass, or cup identifying the licensee, the commission has the discretion to determine which licensee to cite for an underage sale or other such violation. If the commission is unable to determine which licensee committed the violation after conducting a reasonable investigation, the commission may issue a citation to one (1) or more licensees that share the premises where the violation occurred;

(vii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility described under this subdivision (28)(IIIIII) means, for the purpose of obtaining a beer permit, any and all of the property that constitutes the facility, including all enclosed and outdoor areas of the property. The beer permittee shall designate the

premises to be licensed by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. The beer board shall enforce chapter 5 of this title against each licensee as a beer permittee and shall not cite, penalize, or take any other adverse action against a licensee for any violation committed by another licensee on the licensed premises. There is a rebuttable presumption of liability for a specific licensee for any underage sale or other violation based on the unlabeled or labeled container, or unlabeled or labeled cup or glassware, as required pursuant to subdivision (28)(IIIIII)(v), provided to the minor. In the absence of a container, glass, or cup identifying the licensee, the local beer board has the discretion to determine which licensee to cite for an underage sale or other such violation. If the beer board is unable to determine which licensee committed the violation after conducting a reasonable investigation, the beer board may issue a citation to one (1) or more licensees that share the premises where the violation occurred;

(viii) Notwithstanding § 57-4-203(e)(1), any licensee licensed under this subdivision (28)(IIIIII) may sell and distribute wine in any unsealed container for consumption on the licensed premises;

(ix) Any licensee licensed under this subdivision (28)(IIIIII) may seek an additional license as a caterer under chapter 4 of this title, and is not required to comply with the requirements of subdivision (6)(A) or show exclusive control of a commercial kitchen or any service kitchen, where food is staged and served, as a condition of the license. Caterers licensed under this subdivision (28)(IIIIII)(ix) may store alcoholic beverages and beer in any shared commercial kitchen or service kitchen. The inventory of alcoholic beverages and beer must be stored in a separately locked cage or other storage area;

(x) Nothing in this subdivision (28)(IIIIII) may be construed to prevent a facility, as described under this subdivision (28)(IIIIII), from designating any area of its premises for purposes authorized under this subdivision (28)(IIIIII), or for the purposes of an entity licensed under this title; provided, that premises designated for use by another entity under this title are no longer part of the premises of any license issued under this subdivision (28)(IIIIII), except as provided in § 57-4-101(p); and

(xi) The facility, landlord, tenant, or any licensee located in the facility shall provide periodic security for the entire licensed premises;

(JJJJJJ)(i) A commercially operated recreational facility having all of the following characteristics:

*(a)* The facility is located approximately one mile (1 mi.) from the confluence of Clear Creek and the Obed River and is centrally located in one of this state's rock climbing meccas;

*(b)* The facility is located on approximately forty (40) acres;

*(c)* The facility provides at least forty (40) campsites and contains a restaurant and a brewery; and

*(d)* The facility is located in a county having a population of not less than twenty-one thousand nine hundred (21,900) nor more than twenty-two thousand (22,000), according to the 2010 federal census or

any subsequent federal census; and

(ii) The premises of any facility licensed under this subdivision (28)(JJJJJJJ) means any or all of the property that constitutes the facility. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(KKKKKK) A commercially operated facility possessing each of the following characteristics:

(i) Has an outdoor waterpark site covering at least fifty (50) acres that has a wave pool and other water attractions that contain at least one million seven hundred thousand {1,700,000) gallons of water; and

(ii) Is located approximately five hundred feet (500′) south of a municipal convention center, approximately two thousand two hundred feet (2,200′) west of a state highway named in honor of a former governor of this state, and in a county having a population of not less than eighty-nine thousand eight hundred (89,800) nor more than eighty-nine thousand nine hundred (89,900), according to the 2010 federal census or any subsequent federal census;

(LLLLLL) A commercially operated facility that:

(i)*(a)* Serves as an event venue for weddings, a farmer's market, photography, birthdays, festivals, and similar events;

*(b)* Contains a small and large dog park with obstacle courses and a dog wash station;

*(c)* Contains a tree grove;

*(d)* Operates a facility that is greater than seventeen thousand square feet (17,000 sq. ft.) containing a dual convention space that can accommodate up to five hundred (500) people, and a restaurant with indoor and outdoor seating for approximately two hundred (200) guests;

*(e)* Offers scenic mountain overlook views; and

*(f)* Is located in a municipality with a population of not less than nine thousand eight hundred forty (9,840) and not more than nine thousand eight hundred forty-nine (9,849);

(ii) The premises of any facility licensed under this subdivision (28)(LLLLLL) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The designated premises may only include property owned or leased by the facility and that is contiguous to the property of the facility that is defined in this subdivision (28)(LLLLLL). The entire designated premises is covered under one (1) license issued under this subdivision (28)(LLLLLL); and

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (28)(LLLLLL) means, for beer permitting purposes, any or all of the property that constitutes the facility. The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a

new drawing. The entire designated premises is covered under one (1) beer permit issued under chapter 5 of this title;

(MMMMMM) A commercially operated facility that:

(i) Is an event and wedding venue located on fifty-three (53) acres containing:

*(a)* A space under roof of over thirteen thousand square feet (13,000 sq. ft.) equipped with heat and air conditioning year-round;

*(b)* Six thousand five hundred square feet (6,500 sq. ft.) of paver patio;

*(c)* Sixteen thousand square feet (16,000 sq. ft.) of barefoot cozy turf;

*(d)* A covered patio of one thousand seven hundred eighty-seven square feet (1,787 sq. ft.) adjacent to the main hall; and

*(e)* A one-thousand-eight-hundred-square-foot bridal suite, and a groom's lounge with a wet bar, foosball table, and a large television;

(ii) Contains an equestrian center that is seven thousand square feet (7,000 sq. ft.);

(iii) Contains a prep kitchen with two (2) stoves, two (2) ovens, a warming box, high-capacity ice maker, sinks, work stations, and drive-up load area;

(iv) Operates working equine facilities of six thousand five hundred square feet (6,500 sq. ft.), including an arena, and a workshop barn that is two thousand square feet (2,000 sq. ft.); and

(v) Is located in a county with a population of not less than one hundred thirteen thousand nine hundred (113,900) and not more than one hundred fourteen thousand (114,000), according to the 2010 or any subsequent federal census;

(NNNNNN) A commercially operated facility that:

(i) Is located on approximately ten (10) acres contiguous to Kentucky Lake;

(ii) Operates a restaurant on a floating dock with approximately two hundred fifty (250) seats;

(iii) Operates approximately sixty (60) boat slips for customers;

(iv) Operates a gift and souvenir shop;

(v) Is a venue for live music, weddings, and other private and charitable events;

(vi) Operates twenty (20) covered boat slip rentals, twenty-seven (27) campsites, three (3) cabin rentals, and a gas dock; and

(vii) Is located in a county with a population of not less than thirteen thousand three hundred (13,300) and not more than thirteen thousand four hundred (13,400), according to the 2010 or any subsequent federal census;

(OOOOOO) A commercially operated facility that:

(i) Was established in 2017;

(ii) Is situated on approximately eleven (11) acres on the Tennessee River at mile marker seventy-two (72);

(iii) Contains a convenience store and a restaurant with a kitchen and seating for approximately one hundred thirty-three (133) persons

inside and fifty-two (52) persons outside;

(iv) Operates an event venue of approximately three thousand square feet (3,000 sq. ft.) for live music and other private events;

(v) Operates sixteen (16) boat slips; six (6) recreational vehicle sites; eighty-six (86) campsites; and eleven (11) rental units; and

(vi) Is located in a county with a population of not less than thirteen thousand three hundred (13,300) and not more than thirteen thousand four hundred (13,400), according to the 2010 or any subsequent federal census;

(PPPPPP) A commercially operated facility that:

(i) Is situated on approximately seven (7) acres off of White Oak Road in a county with a population of not less than eight thousand four hundred (8,400) and not more than eight thousand five hundred (8,500), according to the 2010 or any subsequent federal census;

(ii) Is located approximately one (1) mile from Cane Creek Marina and approximately three (3) miles from the Danville Ferry;

(iii) Operates a restaurant with a commercial kitchen and approximately seventy (70) indoor seats for guests;

(iv) Operates an outdoor stage and barn as an event venue for music, weddings, and other private events; and

(v) Operates a campground with twenty-five (25) recreational vehicle hook-ups and up to five (5) rental units;

(QQQQQQ) A commercially operated marina that:

(i) Opened in 1959;

(ii) Has fifty-two (52) covered boat slips and thirty-two (32) uncovered boat slips;

(iii) Operates a restaurant and bar with seating for approximately fifty (50) guests;

(iv) Operates a recreational vehicle campground with thirteen (13) campsites;

(v) Operates a convenience store;

(vi) Serves as a venue for live music and entertainment; and

(vii) Is located along the Hiawassee River in a county with a population of not less than ninety-eight thousand nine hundred (98,900) and not more than ninety-nine thousand (99,000), according to the 2010 and any subsequent federal census;

(RRRRRR) A commercially operated facility that:

(i) Consists of an arts, event, and entertainment venue located on seven and one-half (7.5) acres with eight hundred eighty feet (880') of the property contiguous to the Holston River;

(ii) Hosts drive-in movies, live sports broadcasts, and concerts;

(iii) Offers short-term rentals for camping, recreational vehicles, and tiny homes;

(iv) Operates a daylight-usable, high definition LED screen;

(v) Maintains an event pavilion and wooded riverside terrace; and

(vi) Is located in a city with a population of not less than one hundred seventy-eight thousand eight hundred seventy (178,870) and not more than one hundred seventy-eight thousand eight hundred seventy-nine (178,879), according to the 2010 or any subsequent federal census;

(SSSSSS)(i) A commercially operated facility that:

*(a)* Is located on a parcel of land containing approximately five (5) acres;

*(b)* Is within one thousand feet (1,000') of a state highway that crosses eight (8) counties in northern and northeastern Tennessee;

*(c)* Is within seven thousand five hundred feet (7,500') of a tributary of the Big South Fork of the Cumberland River;

*(d)* Contains a hunting lodge that opened in 2007;

*(e)* Contains a farmhouse originally built in the 1930s;

*(f)* Hosts pheasant and quail hunters each year;

*(g)* Is located within seven (7) miles of the Colditz Cove State Natural Area;

*(h)* Is located in a county having a population of not less than seventeen thousand nine hundred (17,900) and not more than eighteen thousand (18,000), according to the 2010 federal census or any subsequent federal census; and

*(i)* Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(ii) The premises of a facility licensed under this subdivision (28)(SSSSSS) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The designated premises may include property owned or leased by the facility and property that is contiguous to the property of the facility that is defined in this subdivision (28)(SSSSSS). The entire designated premises is covered under one (1) license issued under this subdivision (28)(SSSSSS); and

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of a facility licensed under this subdivision (28)(SSSSSS) means, for beer permitting purposes, any or all of the property that constitutes the facility as described in subdivision (28)(SSSSSS)(ii). The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. The entire designated premises is covered under one (1) beer permit issued under chapter 5 of this title;

(TTTTTT)(i) A commercially operated facility that:

*(a)* Has at least five hundred (500) acres of land surrounded by approximately one and one-half (1.5) miles of shoreline along the Tennessee River;

*(b)* Is a venue for dove and quail hunting, weddings, corporate retreats, and other events;

*(c)* Is a working cattle farm, wildlife habitat, and nature preserve, which has access to the River Bluff Trail and Eagle's Nest Trail;

*(d)* Serves or sells at least two (2) meals to patrons a day;

*(e)* Has at least one (1) lodging facility to accommodate overnight guests; and

*(f)* Is located in a county having a population of not less than forty-eight thousand five hundred (48,500) and not more than forty-eight thousand six hundred (48,600), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (28)(TTTTTT) means any and all of the property that constitutes the facility, including all enclosed and outdoor areas of the property, and further including any areas owned in fee or leased. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing; and

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility described under this subdivision (28)(TTTTTT) means, for the purpose of obtaining a beer permit, any or all of the property that constitutes the facility, including all enclosed and outdoor areas of the property. The beer permittee shall designate the premises to be licensed by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing;

(UUUUUU)(i) A commercially operated facility possessing each of the following characteristics:

*(a)* Is located in a county with a metropolitan form of government having a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census;

*(b)* Is a private, for-profit social and golf club, organized and existing under the laws of this state, which has at least six (6) dues-paying members as of January 31, 2021, who pay dues annually, and which offers its members and bona fide guests golf instruction and golf improvement services;

*(c)* Is designed around a family theme and professional business environment and contains an area for video games, a pool table, lounge area, pro shop, bar area, and a conference room for business meetings, and periodically offers its members and guests prepared food services provided by third parties at functions or events on the premises;

*(d)* Contains not less than two (2) golf bays, with tee boxes and golf hitting screens depicting virtual or simulated holes or golf courses for the use of its members and guests;

*(e)* Totals approximately three thousand one hundred square feet (3,100 sq. ft.), and contains one (1) entrance, with a maximum occupancy of fifty (50) individuals, and contains a back patio with six hundred square feet (600 sq. ft.) enclosed by reasonable boundaries, such as planters or dividers, with non-exclusive use; and

*(f)* Does not discriminate against members or potential members or bona fide guests of such members on the basis of gender, race, creed, color, sex, age, religion, or national origin;

(ii) The premises of any facility licensed under this subdivision (28)(UUUUUU ) means any or all of the property that constitutes the

facility. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing; and

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (28)(UUUUUU) means, for beer permitting purposes, any or all of the property that constitutes the facility. The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. The entire designated premises is covered under one (1) beer permit issued under chapter 5 of this title. The requirements of § 57-5-105(b)(1) do not apply to any facility licensed under this subdivision (28)(UUUUUU);

(VVVVVV) A commercially operated facility that:

(i) Operates an 18-hole golf course situated on over one hundred (100) acres;

(ii) Was established in 1929;

(iii) Operates a full-service restaurant and bar;

(iv) Operates an Olympic pool and members' activity room;

(v) Hosts corporate and group golf outings and fundraisers;

(vi) Is a venue for weddings, receptions, and similar events; and

(vii) Is located in a city with a population of not less than seven hundred ten (710) and not more than seven hundred nineteen (719), according to the 2010 or any subsequent federal census;

(WWWWWW)(i) A commercially operated facility that:

*(a)* Contains an urban, mixed-use community combining a luxury hotel, office space, high-end condominiums, and retail space;

*(b)* Is a facility that is not less than one million two hundred thousand square feet (1,200,000 sq. ft.);

*(c)* Is a facility that includes a twenty-one-story office tower with approximately five hundred twenty-five thousand square feet (525,000 sq. ft.) of Class AA space, and a second thirty-four-story tower, including one hundred ninety-six (196) high-end condominiums anchored by a luxury hotel with two hundred thirty-four (234) rooms;

*(d)* Includes two (2) towers connected by one (1) additional building that is approximately one hundred fifteen thousand square feet (115,000 sq. ft.) of retail and office space, and anchored by a one-and-one-half-acre plaza at the heart of the community; and

*(e)* Is located in a county with a metropolitan form of government having a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census;

(ii) Notwithstanding any law to the contrary, a facility licensed under this subdivision (28)(WWWWWW) may:

*(a)* Sell and serve alcoholic beverages and beer to residents, owners, guests, or patrons of the facility on the premises designated by the facility, including within the hotel, office towers and space, high-end

condominiums, retail space, common areas, lobby areas, conference rooms, market area, and pool areas of the facility, including the hotel and condominium pools and the common areas between the two (2) towers;

*(b)* Operate a wine club at the facility to sell sealed bottles of wine to residents or owners of the facility or guests of the hotel, and operate events such as a wine of the month club to sell or give away sealed bottles of wine, fulfill standing orders for residents, owners, or guests, or provide room service to residents, owners, or guests at the facility;

*(c)* Conduct private events or office functions in any area within the facility for the purpose of selling, serving, or giving away alcoholic beverages or beer to residents, guests, tenants, and owners attending such private events;

*(d)* Conduct, or have conducted by means of granting a franchise or otherwise, catered events within any area of the facility, including the office towers and within the hotel property or any property within the facility;

*(e)* Operate, or have operated by means of granting a franchise or otherwise, a hotel, restaurant, or limited service restaurant at the premises of the facility to sell prepared food and alcoholic beverages and beer to patrons; and

*(f)* Engage in any activity related to the sale, dispensing, or giving away of alcoholic beverages and beer authorized under the authority granted to a hotel licensed under § 57-4-102, including providing room service and bottle services to guests of the hotel or owners of the luxury condominiums, with shared amenities between both owners and guests;

(iii) The premises of a facility licensed under this subdivision (28)(WWWWWW ) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing, and which may designate areas for unrelated licensed entities. The entire designated premises may be covered under one (1) license issued under this subdivision (28)(WWWWWW), under multiple licenses pursuant to the franchise authority granted by this subdivision (28)(WWWWWW), or under multiple licenses issued under this chapter to other unrelated licensed entities. If multiple licenses are granted pursuant to this subdivision (28)(WWWWWW) or otherwise under chapter 4 of this title, then the designations of the premises may be unenclosed and overlapping; provided, that the premises are located within the facility as herein described;

(iv) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of a facility licensed under this subdivision (28)(WWWWWW) means, for beer permitting purposes, any or all of the property that constitutes the facility. The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a

new drawing, and which may designate areas for unrelated permitted entities. The entire designated premises may be covered under one (1) beer permit issued under chapter 5 of this title or multiple beer permits to other permitted entities. If multiple beer permits are granted pursuant to this subdivision (28)(WWWWWW), then the designations of the premises may be unenclosed and overlapping; provided, that the premises are located within the facility as herein described;

(v) The requirements of § 57-5-105(b)(1) do not apply to a facility licensed under this subdivision (28)(WWWWWW);

(vi) A facility licensed under this subdivision (28)(WWWWWW) may seek an additional license as a restaurant, limited service restaurant, hotel, or caterer under this chapter;

(vii) A facility licensed under this subdivision (28)(WWWWWW) may hold any of the licenses authorized under this subdivision (28)(WWWWWW) or may grant a franchise to one (1) or more entities for any or all such licenses;

(viii) A facility licensed under this subdivision (28)(WWWWWW) may deliver sealed bottles or containers of wine or beer to any area within the licensed premises of the facility; and

(ix) Notwithstanding any law to the contrary, nothing in this subdivision (28)(WWWWWW) prohibits a qualified entity, unrelated to the facility, from applying for and receiving a license issued under chapter 4 of this title and operating independently from the facility, but within the premises of the facility. The commission shall interpret this subdivision (28)(WWWWWW)(ix) to allow for flexibility in licensure within the premises of the facility;

(XXXXXX)(i) A commercially operated facility that:

*(a)* Is located on at least forty (40) acres;

*(b)* Serves as a venue for weddings, business retreats, meetings, conferences, and events;

*(c)* Is located on property that is within one-quarter (¼) mile of the point where Cox Road goes under Interstate 840 and that borders the Wilson Branch of Nelson Creek; and

*(d)* Is located in a county having a population of not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of a facility licensed under this subdivision (28)(XXXXXX) means any or all of the property that constitutes the facility, including restaurants, cabins, lodges, clubhouses, swimming pools, tennis courts, golf courses, paths, and road crossings. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(iii) A facility licensed under this subdivision (28)(XXXXXX) may be issued one (1) or more liquor-by-the-drink licenses;

(iv) A facility licensed under this subdivision (28)(XXXXXX) may obtain a license as a caterer under subdivision (6);

(v) A facility licensed under this subdivision (28)(XXXXXX) may, at its own discretion, hold a license under this subdivision (28)(XXXXXX), and subdivision (6), and may grant a franchise right to one (1) or more entities that can hold licenses pursuant to this subdivision (28)(XXXXXX); and

(vi) A facility licensed under this subdivision (28)(XXXXXX) may deliver alcoholic beverages to any area within the licensed premises of the facility;

(YYYYYY)(i) A commercially operated facility that:

*(a)* Is located on a parcel of land containing approximately eighteen (18) acres;

*(b)* Is located adjacent to a federal highway;

*(c)* Contains an English Tudor-style house built in 1973;

*(d)* Serves as a venue for weddings, meetings, and events;

*(e)* Contains a winery that was first licensed in 1980;

*(f)* Is located within two (2) miles of a municipal airport;

*(g)* Is located within five (5) miles of the Colditz Cove State Natural Area;

*(h)* Is located in a county having a population of not less than seventeen thousand nine hundred (17,900) and not more than eighteen thousand one hundred (18,100), according to the 2010 federal census or any subsequent federal census; and

*(i)* Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(ii) The premises of a facility licensed under this subdivision (28)(YYYYYY) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The designated premises may include property owned or leased by the facility and property that is contiguous to the property of the facility that is defined in this subdivision (28)(YYYYYY). The entire designated premises is covered under one (1) license issued under this subdivision (28)(YYYYYY);

(iii) Notwithstanding a provision of chapter 5 of this title to the contrary, the premises of a facility licensed under this subdivision (28)(YYYYYY) means, for beer permitting purposes, any or all of the property that constitutes the facility as described in subdivision (28)(YYYYYY)(ii). The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. The entire designated premises is covered under one (1) beer permit issued under chapter 5 of this title; and

(iv) The winery located at a facility licensed under this subdivision (28)(YYYYYY) may exercise the rights and privileges established in § 57-3-207 anywhere on the premises of the facility notwithstanding the same premises being licensed under this subdivision (28)(YYYYYY), and guests may carry drinks sold under either license anywhere on the premises of the facility. The rights and privileges of the winery under § 57-3-207 are not diminished under this subdivision (28)(YYYYYY);

(ZZZZZZ)(i) A commercially operated facility that:

*(a)* Is located on approximately two and one-half (2.5) acres contiguous to Gatlinburg Parkway that connects by way of a Chondola to approximately seventy (70) acres;

*(b)* Was established in September of 2017;

*(c)* Operates two (2) full-service restaurants with seating for approximately three hundred (300) patrons, and two hundred fifty (250) patrons, respectively;

*(d)* Operates a zipline, a single rail coaster covering approximately two (2) miles with mountaintop views of the Great Smoky Mountains National Park;

*(e)* Operates a suspended tree canopy walk with seventeen (17) bridges that is approximately one (1) mile long; and

*(f)* Is located in a city with a population of not less than three thousand nine hundred forty (3,940) and not more than three thousand nine hundred forty-nine (3,949), according to the 2010 or any subsequent federal census;

(ii) The premises of a facility licensed under this subdivision (28)(ZZZZZZ) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The designated premises may include property owned or leased by the facility and property that is contiguous to the property of the facility that is defined in this subdivision (28)(ZZZZZZ). The entire designated premises is covered under one (1) license issued under this subdivision (28)(ZZZZZZ);

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of a facility licensed under this subdivision (28)(ZZZZZZ) means, for beer permitting purposes, any or all of the property that constitutes the facility as described in subdivision (28)(ZZZZZZ)(ii). The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. The entire designated premises is covered under one (1) beer permit issued under chapter 5 of this title;

(iv) A facility licensed under this subdivision (28)(ZZZZZZ) may obtain a license as a caterer under subdivision (6);

(v) A facility licensed under this subdivision (28)(ZZZZZZ) may grant a franchise right to one (1) or more entities that can hold a caterer's license pursuant to this subdivision (28)(ZZZZZZ); and

(vi) A facility licensed under this subdivision (28)(ZZZZZZ) may deliver alcoholic beverages to any area within the licensed premises of the facility;

(AAAAAAA) A commercially operated facility that:

(i)*(a)* Operates a licensed marina and recreational facility that is located on approximately ten and one-half (10.5) acres in Ish Creek, commonly known as Prater Flats, contiguous to the Tennessee River in Fort Loudon Lake southeast of mile marker six hundred twelve, and bearing approximately eight hundred ninety-nine feet (899')

along the shoreline;

*(b)* Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

*(c)* Is located in a county with a population of not less than one hundred twenty-three thousand one (123,001) and not more than one hundred twenty-three thousand one hundred (123,100), according to the 2010 or any subsequent federal census;

(ii) A facility licensed under this subdivision (28)(AAAAAAA) may also operate a restaurant on the premises if the restaurant is separately licensed under this chapter; and

(iii) The premises of a facility licensed under this subdivision (28)(AAAAAAA) means any or all of the property that constitutes the facility. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(BBBBBBB) A commercially operated marina having the following characteristics:

(i) Has at least three hundred fifty (350) boat slips, at least fifteen (15) cabins for rent, recreational vehicle camping hookups, and a full-service caf, with indoor and outdoor seating; and

(ii) Is located on Tims Ford Lake approximately one-half (½) mile south of Tims Ford State Park in a county having a population of not less than forty-one thousand (41,000) and not more than forty-one thousand one hundred (41,100), according to the 2010 federal census or any subsequent federal census;

(29)(A) "Premises," when:

(i) Referring to an establishment licensed under this chapter;

(ii) Such establishment is located within an historical district which has been designated as a national historic landmark;

(iii) Such national historic landmark centers around a historic public street or right-of-way;

(iv) Such a public street or right-of-way is closed to motor vehicular traffic, whether permanently or on a regular basis; and

(v) But only to the extent that such premises are located and fronting upon such historic street and not located on or fronting upon another street or right-of-way within such national historic landmark;

includes the area encompassed by the boundaries of the historic district; provided, that the granting of a license for a business location within such historical district shall not preclude the granting of another license to another establishment located within the boundaries of the historic district. This subdivision (29) applies only to counties with a population of more than four hundred thousand (400,000), according to the 1980 census, but those counties having a metropolitan form of government shall be exempt from this subdivision (29). In such county, only for the purposes of the hours of sale provided in § 57-4-203(d)(4), "premises" also includes any establishment located within four (4) blocks west of the western boundary of the historic district and on the same public street or right of way as the historic district; provided, that the requirement of closing the

street or right-of-way to motor vehicular traffic on a regular basis shall not apply to the extension of the premises established by this sentence. Within the premises as defined in this subdivision (29)(A), and subject to the municipality's right of ownership and control and any conditions, rules, or regulations imposed by the city or its designee or by law, alcoholic beverages may also be served to customers seated at tables and chairs contiguous to the outside front wall of a licensee's building;

(B)(i) "Premises," when:

*(a)* Referring to an establishment licensed under this chapter;

*(b)* Such establishment is located within a central improvement district; and

*(c)* The central improvement district is located in a county having a metropolitan government that has a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

includes only the area located between a convention center, its designated convention center hotel, and a museum that is attached to the convention center hotel; and the one (1) block of public roadway on Fifth Avenue between Demonbreun Street and Korean Veterans Boulevard; and

(ii) This subdivision (29)(B) shall only be effective in any county upon the adoption of a resolution by a majority vote of the local legislative body approving the use of this definition of "premises";

(C) "Premises," when:

(i) Referring to one (1) or more establishments licensed under this chapter, or a manufacturer exercising the rights granted to it under § 57-3-202(i)(1); and

(ii) Such establishments are located:

*(a)* Within a home rule municipality in a county with a population of not less than three hundred thirty-six thousand four hundred (336,400) and not more than three hundred thirty-six thousand five hundred (336,500), according to the 2010 federal census or any subsequent federal census; and

*(b)* Within or adjacent to an area that is a five hundred seventy-five foot (575′) paver lined street with a right of way that is approximately forty feet (40′) wide extending from Market Street on the western boundary to Rossville Avenue on the eastern boundary; that is bordered along its northern boundary by a historic railroad terminal station that has been listed on the National Register of Historic Places since 1974; and that is bordered along its northern boundary by property zoned for urban-industrial mixed use and along its southern boundary by property that is zoned for urban-commercial mixed use;

includes the area described in subdivision (29)(C)(ii)(*b*). The granting of a license for a business located within or adjacent to the boundaries of the area described in subdivision (29)(C)(ii)(*b*) does not preclude the granting of another license to another establishment located within or adjacent to such area;

(D) "Premises," when:

(i) Referring to one (1) or more establishments licensed under this chapter; and

(ii) Such establishments are located:

*(a)* Within a municipality with a population of not less than one hundred thirty-two thousand nine hundred twenty (132,920) and not more than one hundred thirty-two thousand nine hundred twenty-nine (132,929), according to the 2010 and any subsequent federal census; and

*(b)* Within or adjacent to an area that begins at the northeast intersection of 3rd Street and Main Street, running west to the northeast intersection of Main Street and 2nd Street, north along 2nd Street to the southeast corner of 2nd Street and College Street, southwest along College Street to the southwest intersection of 1st Street and College Street, south on 1st Street to the southwest intersection of 1st Street and Franklin Street, east along Franklin Street to the southeast intersection of Franklin Street and 3rd Street, north to the point of beginning at the northeast intersection of 3rd Street and Main Street, including the pedestrian bridge at College Street and Riverside Drive and along the Clarksville Riverwalk through and including McGregor Park to the end of the Riverwalk at the confluence of the Cumberland and Red Rivers;

includes the area described in subdivision (29)(D)(ii)(*b*). The granting of a license for a business located within or adjacent to the boundaries of the area described in subdivision (29)(D)(ii)(*b*) does not preclude the granting of another license to another establishment located within or adjacent to such area;

(30) "Public aquarium" means a facility which contains a collection of living aquatic animals whose sole or primary habitat is water and which facility provides for care and housing for public exhibition, and also possesses the following characteristics:

(A) The exhibits containing live aquatic animals for public viewing are housed in a building having at least one hundred thousand square feet (100,000 sq. ft.) of interior space;

(B) The exhibits containing live aquatic animals for public viewing contain a minimum total of five hundred thousand gallons (500,000 gals.) of water as the living environment of the animals; and

(C) The public aquarium is located in a county having a population in excess of two hundred fifty thousand (250,000), according to the 1990 federal census or any subsequent federal census;

(31)(A) "Restaurant" means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least forty (40) people at tables, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. An establishment shall be eligible for licensure as a restaurant in accordance with this part, if the establishment is open at least three (3)

days a week, with the exception of holidays, vacations, periods of redecorating and seasonal closings, and more than fifty percent (50%) of the gross revenue of the restaurant is generated from the serving of meals. As used in this subdivision (31), "seasonal closing" means the period from November 1 to March 1 or a period of time, if different from such dates, as filed by the restaurant with the alcoholic beverage commission;

(B) "Restaurant" also means any bowling center that was licensed as of January 1, 1983, to sell alcoholic beverages for consumption on the premises;

(C) In counties with a population of more than three hundred nineteen thousand six hundred twenty-five (319,625), according to the 1980 census, but excluding those counties having a metropolitan form of government:

(i) Within a national historic landmark district or urban park center, as defined by this section, or within an easement area granted to a municipality for commercial recreation and commercial recreation facilities from the Tennessee Valley authority in the Fort Loudoun Reservoir:

*(a)* Restaurant licensees shall not be required to meet any requirements of this section which make food service, maintenance of a kitchen, or a dining room a prerequisite to the issuance of a restaurant permit to serve liquor by the drink; and

*(b)* Notwithstanding any law to the contrary, restaurant licensees may enter into leases with municipal landowners in which gross sales, which may include or exclude liquor sales, are considered in the determination of a percentage rent or other rent calculation provision; and

(ii) Within a sports authority facility, as defined in this section, restaurant licensees shall not be required to meet any of the requirements of subdivision (31)(A) which make food service, maintenance of a kitchen, or a dining room a prerequisite for the issuance of a permit to serve liquor by the drink;

(D) Notwithstanding the minimum seating capacity established in subdivision (31)(A), for the purpose of a permit to serve wine, "restaurant" means any lodge or resort with sleeping accommodations where meals are served that is located on land which is owned by the United States department of the interior, is operated by the national park service or its agents or contractors and is located in a county with a population of not less than forty-one thousand four hundred (41,400) nor more than forty-one thousand five hundred (41,500), according to the 1980 federal census or any subsequent federal census;

(E) "Restaurant" also means a facility located in any municipality having a population in excess of one hundred thousand (100,000), according to the 1990 federal census, or any subsequent federal census, in which coffees, teas, pastries, and other foodstuffs are offered for sale for consumption on the premises, which facility has a seating capacity of at least thirty (30) seats and which facility obtains at least fifty percent (50%) of its annual gross sales from the sale of coffees, teas and pastries. Any restaurant licensed under this subdivision (31)(E) shall be authorized to

sell alcoholic beverages for consumption on the premises only when such beverages are mixed with coffees, teas and other beverages. A restaurant licensed under this subdivision (31)(E) need not meet the requirement of subdivision (31)(A);

(F) "Restaurant" also means a facility:

(i) Located within one-half (½) mile of the railroad tracks in the unincorporated area of any county having a population of not less than thirty thousand two hundred (30,200) nor more than thirty thousand four hundred seventy-five (30,475), according to the 1990 federal census or any subsequent federal census;

(ii) Whose primary source of income is from serving meals to its patrons, both indoors and out-of-doors, and has a total seating capacity of at least seventy-five (75) people at tables;

(iii) Located in a building having a total square footage of at least two thousand five hundred square feet (2,500 sq. ft.) which was constructed prior to 1925; and

(iv) Which is located on a site used during the Civil War or within two (2) miles of two (2) or more Civil War sites, or is within one and one-half (1 ½) miles of a home that was built in 1884, and which is preserved as the area's best example of the Queen Anne and Eastlake architectural styles;

(G) "Restaurant" also means a facility:

(i) Located on Highway 243 in a county having a population of not less than sixty-nine thousand four hundred (69,400) nor more than sixty-nine thousand five hundred (69,500), according to the 2000 federal census or any subsequent federal census;

(ii) That has seating for not more than one hundred forty (140) people;

(iii) That has a music and entertainment orientation;

(iv) Whose primary source of income is derived from serving meals to its patrons;

(v) That has a historic working original malt and soda fountain;

(vi) That is located in a historical structure formerly used as a town hall as well as a practice venue for Grand Ole Opry hopefuls; and

(vii) That does not discriminate against any patron on the basis of age, gender, race, religion or origin;

(H)(i) Restaurant also means a facility that:

*(a)* Is owned, operated or leased by a for-profit organization organized under the laws of this state;

*(b)* Does not discriminate against any patron on the basis of gender, race, religion or national origin;

*(c)* Provides food service to the public or for private events and catering with seating capacity for at least two hundred fifty (250) persons at tables, whether or not the seating is inside or on a deck or patio;

*(d)* Is open at least five (5) days a week serving two (2) meals daily with the exception of holidays, vacations, seasonal conditions and periods of redecorating, with suitable kitchen, dining facilities and

equipment;

*(e)* Is in the center of a full service marina and resort located on the Tennessee River at mile marker 477.5; which full service marina has at least six hundred (600) dry storage slips and wet slips up to eighty feet (80′) that offers two (2) cabins completely furnished and an inn with twelve (12) rooms that overlooks the Tennessee River; and

*(f)* Is located in any county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census;

(ii) A restaurant under this subdivision (31)(H) must comply with all the requirements of this chapter and shall be subject to the restrictions imposed upon licenses other than § 57-4-103;

(I) "Restaurant" also means a facility:

(i) Located on State Route 46, Old Hillsboro Road, in any county having a population of not less than one hundred twenty-six thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census;

(ii) Which is located 1.66 miles from the Natchez Trace Parkway Exit off of Pinewood Road;

(iii) Whose primary source of income is from serving meals to its patrons;

(iv) Which first opened as a restaurant in 1968;

(v) Which does not operate as a grocery store; and

(vi) Which does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(J) "Restaurant" also means a facility that:

(i) Is located in a county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(ii) Is a twenty-four-hour-a-day diner;

(iii) Is located in a central business improvement district as of 2017;

(iv) Serves full meals and has a full-time kitchen staff, twenty-four (24) hours a day;

(v) Holds a valid license from the commission;

(vi) Is located in a separate, unattached building;

(vii) Does not permit live music or entertainment, nor share walls with any establishment offering live music or entertainment; and

(viii) Has six (6) floors and at least seventeen thousand square feet (17,000 sq. ft.);

(K) "Restaurant" also means a facility that:

(i) Is located in a county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(ii) Is situated to the east and to the west of the Cumberland River in Pennington Bend;

(iii) Is located approximately two thousand feet (2,000′) to the north-

west of a resort and convention center;

(iv) Is a venue for live music;

(v) Has an outdoor deck that is approximately three thousand square feet (3,000 sq. ft.); and

(vi) Operates a restaurant that is approximately eight thousand square feet (8,000 sq. ft.) with a seating capacity of approximately two hundred fifty (250);

(L) "Restaurant" also means a facility that:

(i) Began operating on September 5, 2018;

(ii) Has a seating capacity for patrons of approximately one hundred forty (140);

(iii) Is located on Hixson Pike within one thousand five hundred feet (1,500') of Dallas Bay on the Tennessee River and within six thousand feet (6,000') of Chester Frost Park;

(iv) Is approximately two thousand square feet (2,000 sq. ft.); and

(v) Is located in a county with a population of not less than three hundred thirty-six thousand four hundred (336,400) and not more than three hundred thirty-six thousand five hundred (336,500), according to the 2010 federal census or any subsequent federal census;

(M)(i) A "restaurant" also means a commercially operated facility that:

*(a)* Is located in a county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

*(b)* Is located on the western bank of the Cumberland River;

*(c)* Once housed a full-service radio studio, which was removed in 2016;

*(d)* Serves as a venue for live music, dancing, banquets, meetings, and other events, and opened to the public in June 1994; and

*(e)* Has three (3) floors, at least sixty-six thousand (66,000) square feet, and a seating capacity for at least two thousand (2,000) guests;

(ii) A restaurant under this subdivision (31)(M) is not required to meet any gross revenue percentage requirements for food service as a prerequisite to the issuance of a restaurant license to serve liquor by the drink; provided, however, that a restaurant applying for the renewal of its license under this subdivision (31)(M) shall pay the appropriate license fee due under § 57-4-301(b)(1)(W) when the gross revenue from the previous year derived from food sales is fifty percent (50%) or less than the gross revenue from the sale of alcoholic beverages;

(iii) The premises of any facility licensed under this subdivision (31)(M) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The entire designated premises is covered under one (1) license issued under this subdivision (31)(M);

(iv) Notwithstanding chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (31)(M) means, for beer permitting purposes, any or all of the property that constitutes

the facility. The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. The entire designated premises is covered under one (1) beer permit issued under chapter 5 of this title;

(v) Any facility licensed under this subdivision (31)(M) may seek an additional license as a caterer under § 57-4-102(6);

(vi) Any facility licensed under this subdivision (31)(M) may hold any of the licenses authorized under this subdivision (31)(M) and may grant a franchise to one (1) or more entities for any or all such licenses;

(32)(A) "Retirement center" means a facility that contains each of the following characteristics:

(i) The center is located in a county having a population of not less than one hundred twenty-six thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census;

(ii) The center is located on a single parcel of land not less than forty eight (48) acres and not more than forty-nine (49) acres in area;

(iii) The center will consist of individual living unit apartments, individual living unit villas, an assisted living facility, a nursing home facility, a club house and common areas;

(iv) The center will have a club house that houses a health club, game room, lounge and a dining facility;

(v) The center's lounge in the club house will offer to the center's residents and their guests only food, nonalcoholic beverages, mixed alcoholic drinks, wine and beer, as well as make available in the dining facility and other areas within the center's property, for the center's residents and guests only, mixed alcoholic drinks, wine and beer; and

(vi) The center does not discriminate against any patron on the basis of gender, race, religion or national origin;

(B) "Retirement center" also means a facility that contains each of the following characteristics:

(i) The center is located in a county having a population of not less than one hundred fifty-six thousand eight hundred (156,800) nor more than one hundred fifty-six thousand nine hundred (156,900), according to the 2010 federal census or any subsequent federal census;

(ii) The center will consist of recreational areas, a fitness center, a dining room with seating for at least one hundred fifty (150) people and a lounge area, and at least one hundred (100) individual living unit apartments;

(iii) The center will have a facility of at least one hundred five thousand square feet (105,000 sq. ft.) and is located on approximately eight (8) acres near the corner of Fort Henry Drive and Holston Hills Drive; and

(iv) The center's lounge area will offer, to the center's residents and their guests only, food, nonalcoholic beverages, mixed alcoholic drinks, wine, and beer, as well as make available in the dining room and other areas within the center's property, for the center's residents and guests

only, mixed alcoholic drinks, wine, and beer;

(33) "Special historic district" means any area with specific boundaries that possesses the following characteristics:

(A) Was organized pursuant to a municipal urban planning and development board;

(B) Contains within such special historic district an historic district listed on the national register of historic places;

(C) Is located on a trolley line; and

(D) Is located in any county having a population of eight hundred thousand (800,000) or more, according to the 2000 federal census or any subsequent federal census;

(34)(A) "Special occasion license" means a license which the commission may issue to a bona fide charitable, nonprofit or political organization. Such license shall be issued for no longer than one (1) twenty-four-hour period, subject to the limitations of hours of sale which may be imposed by law or regulation, and such license may be issued in advance of its effective date;

(B) If a bona fide charitable or nonprofit organization owns and maintains a permanently staffed facility which:

(i) Is used for the periodic showing or exhibition of animals;

(ii) Has a seating capacity of not less than twenty-five thousand (25,000) persons; and

(iii) Has a separate permanently constructed clubhouse or meeting room located on the grounds,

then a special occasion license may be issued for use at the clubhouse or meeting room for the duration of the particular show or exhibit for which application is made, and such organization shall not be subject to the numeric limitation contained in the last sentence of this subdivision (34). This license shall only be available upon the payment of the fee as required by law for each separate day of the show;

(C) Such license shall not be issued unless and until there shall have been paid to the commission for each such license a license fee of one hundred dollars ($100), and there shall have been submitted an application which designates the premises upon which alcoholic beverages shall be served. No such charitable, nonprofit or political organization shall be eligible to receive more than twelve (12) special occasion licenses in any calendar year;

(D) A special occasion license under this section may also be issued to a nonprofit historical society for the purpose of serving complimentary samples of homemade wine manufactured in the Swiss tradition by a society member or members, the complimentary samples not to exceed one ounce (1 oz.) per wine type per person to be served at an annual festival conducted by a society celebrating the Swiss heritage at a farm museum in any county having a population of not less than fourteen thousand three hundred (14,300) nor more than fourteen thousand four hundred (14,400), according to the 2000 federal census or any subsequent federal census;

(E) Any entity holding a special occasion license issued under this subdivision (34) or members of the licensee may transport wine and other

alcoholic beverages to the location for which the special occasion license is issued;

(F) "Special occasion license" also means a license, issued by the commission, to a bona-fide charitable organization, recognized as exempt from taxation by the internal revenue service pursuant to § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)), which organization has been in continuous operation as a tax-exempt entity for at least twenty (20) years, and which organization has an annual budget of at least one million dollars ($1,000,000). A special occasion license issued pursuant to this subdivision (34)(F) shall be authorized to sell wine in closed containers for consumption on or off the premises notwithstanding the restrictions of § 57-4-203. Any licensee holding a license issued pursuant to § 57-3-202, § 57-3-203, § 57-3-204, § 57-3-207, § 57-3-605 or § 57-4-101 may donate wine to an organization holding a special occasion license issued pursuant to this subdivision (34)(F) for an event conducted by the special occasion licensee. Any resident of Tennessee may donate wine, which brand of wine has been registered pursuant to § 57-3-301, to an organization holding a special occasion license issued pursuant to this subdivision (34)(F) for sale or consumption at an event conducted by the special occasion licensee;

(G) A special occasion license under this section may also be issued to a bona fide charitable organization that benefits charities which support women and children in Middle Tennessee and which:

(i) Holds the event in a county having a population of not less than one hundred twenty-six thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census, on property used as a veterinary clinic located on a six and sixty-five one hundredths (6.65) acre lot that shares a common boundary between a municipality and the unincorporated area of such county;

(ii) Jurisdictions within the boundaries of such county have by referendum adopted both the sale of alcoholic beverages at retail package stores and for consumption on the premises;

(iii) Is a one-day annual event restricted to persons twenty-one (21) years of age or older;

(iv) Holds a grape stomp contest with teams made up of four (4) stompers and one (1) swabbie, who collects the juice created by the stompers in a jar, with the team producing the most juice winning the contest;

(v) Includes numerous food vendors;

(vi) Has wine and spirits tastings; and

(vii) Where alcoholic beverages are served but not sold;

(H) A special occasion license under this section may also be issued to a nonprofit community association for the purpose of serving samples of wine to persons holding a presold ticket for an annual fundraiser, the samples not to exceed two ounces (2 oz.) per wine per person to be served at the annual fundraiser conducted by the community association in any county having a population of not less than one hundred twenty-six

thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census. The fundraiser shall be an insured event with at least ten (10) wineries or restaurants participating in the event and food shall be available to attendees;

(35)(A) "Sports authority facility" means a facility possessing the following characteristics:

(i) The facility is owned or operated by a sports authority established under title 7, chapter 67, a public building authority or a governmental entity;

(ii) The facility is designed and used for presentation of professional sporting events and other activities, such as amateur sporting events, recreational activities and entertainment events and activities, and includes retail sales areas and retail food dispensing outlets, including, but not limited to, restaurant areas to accommodate liquor by the drink as well as food patronage;

(iii) A major or minor league professional baseball (American, National or Minor League), football (National Football League), basketball (National Basketball Association) or hockey (National Hockey League) franchise has entered into a long-term agreement to play its home games in the facility; and

(iv) The facility is located in a municipality or county having a population in excess of five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census;

(B) "Sports authority facility" also means a facility possessing the following characteristics:

(i) The facility includes a stadium that was constructed in 1997 and that has a seating capacity of twenty thousand (20,000) or more;

(ii) The facility is designed and used for sporting and other municipal events;

(iii) The facility is located in a home rule municipality located in a county with a population of not less than three hundred thirty-six thousand four hundred (336,400) and not more than three hundred thirty-six thousand five hundred (336,500), according to the 2010 federal census or any subsequent federal census; and

(iv) The facility is located not more than one-half (1/2) mile from the Tennessee River;

(C) "Sports authority facility" also means any facility that is designed and used for school-sanctioned public sporting events on a public university campus located in any county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(D) "Sports authority facility" also means any facility that is designed and used for school-sanctioned public sporting events on a four-year public university campus located in any county having a population of not less than two hundred sixty-two thousand six hundred (262,600) nor more than two hundred sixty-two thousand seven hundred (262,700), according to the 2010 federal census or any subsequent federal census;

(E) "Sports authority facility" also means any facility on the campus of a public or private institution of higher education that is designed and used for sporting events sanctioned by the institution;

(F)(i) "Sports authority facility" also means a facility that:

*(a)* Is a professional motorsports speedway complex with a speedway approximately one-half (½) of a mile in length and a seating capacity of approximately one hundred sixty thousand (160,000);

*(b)* Includes a dragstrip complex adjacent to the speedway with a dragstrip approximately one-quarter (¼) of a mile in length and that contains stadium seating and at least twenty (20) suites; and

*(c)* Is located in a city with a population of not less than twenty-six thousand seven hundred (26,700) and not more than twenty-six thousand seven hundred nine (26,709), according to the 2010 federal census and any subsequent federal census; and

(ii) The premises of any facility licensed under this subdivision (35)(F) includes all of the property constituting the facility. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(G) "Sports authority facility" also means any facility located in any county with a metropolitan form of government that has a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census, and that is equipped with two (2) or more ice rinks designed and used for various hockey and figure skating programs for children and adults that are supervised by a major or minor league professional hockey franchise;

(H) "Sports authority facility" also means a facility that:

(i) Is designed and used for professional sporting events and other entertainment activities;

(ii) Has a seating capacity in excess of two thousand five hundred (2,500); and

(iii) Is located within one-half (0.5) mile of Interstate 75 in a municipality having a population not less than twenty thousand nine hundred (20,900) and not more than twenty-one thousand (21,000), according to the 2010 or any subsequent federal census;

(36) "Suite" means any room or group of rooms, leased by the operator of a sports authority facility or a convention center, physically located within such facility or center, where access to such room or rooms is restricted to the lessee or such lessee's guests;

(37) "Tennessee River resort district" means a club, hotel, motel, restaurant or limited service restaurant located within a jurisdiction that has elected Tennessee River resort district status pursuant to § 67-6-103(a)(3)(F); provided, that for the purposes of this chapter, such district shall only extend inland for three (3) miles from the nearest bank of the Tennessee River. No entity licensed to sell alcoholic beverages within the boundaries of any such resort district shall discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(38) "Terminal building of a commercial air carrier airport" means a building, including any concourses thereof, used by commercial airlines and

their customers for sale of airline tickets, enplaning and deplaning of airline passengers, loading and unloading of baggage and cargo, and for providing other related services for the convenience of airline passengers and others, located in any airport which is served by one (1) or more commercial airlines, and:

(A) Is operated by a board of commissioners whose membership is appointed by the legislative bodies of five (5) or more local governments or whose membership is appointed pursuant to § 42-4-105; or

(B) Is located in a municipality where this chapter has become effective in that municipality;

(39)(A) "Theater" means any establishment in which motion pictures are exhibited to the public regularly for a charge. Such theater shall have an area that is enclosed by glass and which is accessed through a set of double doors by patrons who must be twenty-one (21) years of age or older to enter. Such theater shall be part of a retail and entertainment complex located one (1) block from a historical district that has been designated as a national historic landmark that centers around a public street or right-of-way. Such theater shall be located in a county having a population of eight hundred thousand (800,000) or more, according to the 1990 federal census or any subsequent federal census;

(B) "Theater" also means any establishment in which motion pictures are exhibited to the public regularly for a charge and which possesses the following characteristics:

(i) Is a twelve (12) auditorium theater that is one hundred percent (100%) digital;

(ii) Is certified by the United States Green Building Council as the nation's first stand-alone theater boasting energy and environmental sensitive design;

(iii) Has one (1) auditorium restricted to patrons twenty-one (21) years of age or older; and

(iv) Is located downtown near a river in a county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census;

(C) "Theater" also means an establishment in which motion pictures are exhibited to the public regularly for a charge. The theater shall have a local beer permit for on-premises consumption. The theater shall regularly serve prepared food to patrons and each auditorium in which alcoholic beverages may be consumed shall allow dining at each seat in the auditorium. Prior to making a sale of any alcoholic beverage, a valid, government-issued document, such as a driver license or other form of identification deemed acceptable to the license holder that includes a photograph and date of birth of the adult consumer attempting to make the purchase, shall be produced to the licensee. The theater shall also periodically visually monitor all auditoriums in which alcoholic beverages are permitted and each beverage containing an alcoholic beverage shall be distinct from any other container used to serve nonalcoholic beverages;

(40)(A) "Urban park center" means a facility or designated area possessing

the following characteristics:

(i) The center is owned, operated, or leased by a municipal or county government, or any agency or commission thereof;

(ii) The center is designed to contain outdoor recreational facilities, public museum buildings, exhibition buildings, retail sales areas, retail food dispensing outlets including, but not limited to, sale of package alcoholic and malt beverages, and restaurant areas to accommodate liquor-by-the-drink as well as food patronage; and

(iii) The center is located in a municipality or county having a population in excess of six hundred thousand (600,000), according to the 1970 federal census or any subsequent census;

(B)(i) "Urban park center" also means an outdoor fixed structure amphitheater utilized as a performance venue, containing fixed seating for at least five thousand one hundred (5,100) persons. Such facility or designated area shall be secured by adequate perimeter fencing.

(ii) This subdivision (40)(B) applies in any county with a metropolitan form of government with a population of not less than five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census;

(C) "Urban park center" also means a facility or designated area that possesses the following characteristics:

(i) Consists of at least two (2) theater spaces in which live theater, concerts, and films are presented;

(ii) Contains at least ten thousand square feet (10,000 sq. ft.);

(iii) Contains permanent fixed seating for at least three hundred forty-nine (349) persons;

(iv) Contains one (1) performance space constructed prior to 1930 that contains a stage with a fly tower for stage rigging with a height of at least thirty feet (30′);

(v) Is operated by a not-for-profit corporation that qualifies as tax exempt under the Internal Revenue Code, § 501(c)(3) (26 U.S.C. § 501(c)(3)), and such facility or designated area is not a religious organization or a secondary or elementary school;

(vi) A major street is located not more than one hundred feet (100′) from the nearest exterior wall of such facility or designated area; and

(vii) Is located within the jurisdictional limits of a county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census;

(D) "Urban park center" also includes a facility or designated area possessing each of the following characteristics:

(i) Is owned, operated or leased by a municipal or county government, or any agency or commission thereof;

(ii) Has an outdoor fixed structure amphitheater utilized as a performance venue;

(iii) Provides or leases facilities for concerts, plays and programs of cultural, civic and educational interest; and

(iv) Is located in any municipality that has authorized the sale of alcoholic beverages for consumption on the premises, in a referendum in

the manner prescribed by § 57-3-106, and the municipality has a population of not less than twenty-three thousand nine hundred twenty (23,920), nor more than twenty-three thousand nine hundred thirty (23,930), according to the 2000 federal census or any subsequent federal census;

(E) "Urban park center" also means a facility or designated area that possesses each of the following characteristics:

(i) Is owned and maintained by a bona fide charitable or nonprofit organization;

(ii) Is used for the periodic showing or exhibition of animals;

(iii) Has a seating capacity of not less than twenty-five thousand (25,000) persons;

(iv) Includes an arena and a permanently constructed clubhouse or meeting room located on the grounds; and

(v) Is located in any county having a population of not less than forty-five thousand (45,000) nor more than forty-five thousand one hundred (45,100), according to the 2010 federal census or any subsequent federal census;

(F)(i) "Urban park center" also means a facility or designated area possessing each of the following characteristics:

*(a)* Is located on a tract or tracts of land having at least five (5) contiguous acres;

*(b)* Is located directly adjacent to property owned or leased by an airport authority created under state law;

*(c)* Has an enclosed facility or designated area of at least twenty thousand square feet (20,000 sq. ft.) and one (1) room with more than fourteen thousand square feet (14,000 sq. ft.);

*(d)* Has an exterior garden or gardens with sculpture;

*(e)* Is leased or owned by a not-for-profit corporation that qualifies under § 501(c)(3) of the Internal Revenue Code; and

*(f)* Is located within a county having a metropolitan form of government with a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census;

(ii) An urban park center licensed under this subdivision (40)(F) shall have the privilege of granting a franchise for the provision of food or beverage, including alcoholic beverages, on its premises, and the holder of such franchise shall also be considered an urban park center under this subdivision (40)(F). The premises of an urban park center under this subdivision (40)(F) shall include all enclosed and outdoor areas of the property described in this subdivision (40)(F);

(G) "Urban park center" also includes a facility or designated area possessing each of the following characteristics:

(i) Is located in a building constructed in 1883 that was originally used as a flour mill and eventually became a cannery;

(ii) Is an entertainment complex open to the public with three (3) facilities used for live music performances;

(iii) Serves or sells food to patrons;

(iv) Is approximately fifty-two thousand square feet (52,000 sq. ft.); and

(v) Is located within a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(H) "Urban park center" also includes a facility or designated area possessing each of the following characteristics:

(i) Is located approximately two (2) blocks from Interstate 40;

(ii) Is located in a building constructed in the 1920s as an automobile factory;

(iii) Is located in a building remodeled in 2011 as a live music venue open to the public;

(iv) Serves or sells food to patrons; and

(v) Is located within a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(I) "Urban park center" also includes a facility or designated area possessing each of the following characteristics:

(i) Is located in the historic Elliston Place neighborhood;

(ii) Is located approximately three (3) blocks from a private university and approximately one (1) block from a nonprofit hospital;

(iii) Serves or sells food to patrons;

(iv) Was opened to the public in 1971 as a live music venue;

(v) Has a stage that is four feet (4′) high and has an indoor balcony; and

(vi) Is located within a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(J) "Urban park center" also includes a facility or designated area possessing each of the following characteristics:

(i) Is located on 8th Avenue approximately one (1) block from Interstate 65;

(ii) Is a live music venue that opened to the public in 2001;

(iii) Is located beneath an independent and nationally acclaimed record store;

(iv) Serves or sells food to patrons;

(v) Is approximately one thousand eight hundred square feet (1,800 sq. ft.); and

(vi) Is located within a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(K) "Urban park center" also includes a facility or designated area possessing each of the following characteristics:

(i) Is located on Forrest Avenue across from a branch of a public library;

(ii) Is a live music venue that promotes local artists that opened to the public in 2003;

(iii) Serves or sells food to patrons;

(iv) Is approximately two thousand seven hundred square feet (2,700 sq. ft.) and has an enclosed exterior patio; and

(v) Is located within a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(L) "Urban park center" also includes a facility or designated area possessing each of the following characteristics:

(i) Is located on First Avenue South;

(ii) Is owned, operated, or leased by a governmental entity;

(iii) Is a facility or designated area designed and used for the presentation of live outdoor music and other events and includes retail sales areas and retail food dispensing outlets, including, but not limited to, restaurant areas to accommodate sales of alcoholic beverages and food; and

(iv) Is located in a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(M)(i) "Urban park center" also includes a facility possessing each of the following characteristics:

*(a)* Is located on a tract or tracts of land having at least fifty (50) contiguous acres;

*(b)* A state highway is not more than seven hundred fifty feet (750′) from the nearest property line;

*(c)* A commercial railroad track is not more than seven hundred fifty feet (750′) from the nearest property line;

*(d)* Is adjacent to a municipal park having over one thousand nine hundred (1,900) acres;

*(e)* Has an art museum that was originally constructed prior to 1935 as a private residence;

*(f)* Has exterior gardens with a stream or streams, pools, fountains, and a stone grotto;

*(g)* Has a woodland sculpture trail that is over one (1) mile in length;

*(h)* Is leased or owned by a not-for-profit corporation that qualifies as tax exempt under the Internal Revenue Code § 501(c)(3), (26 U.S.C. § 501(c)(3)); and

*(i)* Is located within a county having a metropolitan form of government and a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census;

(ii) An urban park center licensed under this subdivision (40)(M) shall have the privilege of granting a franchise pursuant to a written contract for a period of not less than one (1) year for the provision of food or beverage, including alcoholic beverages, on the premises of the urban park center, and the holder of such franchise shall be disclosed to the commission consistent with the disclosures made by the licensee and shall also be considered an urban park center under this subdivision (40)(M). The premises of an urban park center licensed under this

subdivision (40)(M) shall include all enclosed and outdoor areas of the property described in this subdivision (40)(M);

(N)(i) "Urban park center" also includes a commercially operated facility having all of the following characteristics:

*(a)* The facility is located on approximately one and seven-tenths (1.7) acres of land and has approximately thirty-eight thousand one hundred thirty-five square feet (38,135 sq. ft.) of interior space;

*(b)* The facility is located no more than ten thousand one hundred feet (10,100′) from a federal interstate highway and less than three thousand two hundred feet (3,200′) west of a commercial railroad track. The structure must be not less than two hundred seventy feet (270′) and not more than three hundred feet (300′) above sea level. The structure must have been originally constructed in 2017;

*(c)* The facility is located on a property that is adjacent to the intersection of Madison Avenue and Cooper Street;

*(d)* The property that the facility is located on must have previously housed a structure used as a hotel business that was demolished in 2015;

*(e)* The facility must be approximately one thousand six hundred eighty feet (1,680′) to the south of a public park located on approximately three hundred forty-two (342) acres and that has a zoo that is accredited by the Association of Zoos and Aquariums that is open to the public;

*(f)* The facility consists of at least five (5) studio spaces in which live dance is performed, rehearsed, and instructed;

*(g)* The facility is operated by a not-for-profit corporation that qualifies as tax exempt under § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)), and such facility or designated area is not a religious organization or a secondary or elementary school; and

*(h)* The facility is located in a county with a charter form of government having a population of not less than nine hundred thousand (900,000), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (40)(N) shall mean any or all of the property that constitutes the facility, including all enclosed and outdoor areas of the property. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The entire designated premises shall be covered under one (1) license issued under this subdivision (40)(N);

(iii) Notwithstanding chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (40)(N) shall mean, for beer permitting purposes, any or all of the property that constitutes the facility, including all enclosed and outdoor areas of the property. The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. The entire designated premises shall be covered under one (1) beer permit issued

under chapter 5 of this title; and

(iv) An urban park center licensed under this subdivision (40)(N) shall have the privilege of granting a franchise for the provision of food or beverage, including alcoholic beverages, on its premises, and the holder of such franchise shall also be considered an urban park center under this subdivision (40)(N);

(O) "Urban park center" also means:

(i) A commercially operated facility having all of the following characteristics:

*(a)* The facility is located on land that is between one and one-half (1½) acres and that is adjacent to land owned by the electric power board of a county with a metropolitan form of government;

*(b)* The facility has at least two (2) permanent structures constructed before 1978 and at least twenty-five thousand square feet (25,000 sq. ft.) of climate controlled space;

*(c)* The facility formerly housed a custom car design business that had been serving the automotive community since 1968;

*(d)* The facility is located in a county with a metropolitan form of government having a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census;

*(e)* The facility is approximately five thousand ninety feet (5,090′) to the northeast of a federal interstate highway;

*(f)* The facility is approximately five thousand nine hundred sixty feet (5,960′) to the northwest of a navigable waterway; and

*(g)* The facility is approximately three hundred fifty feet (350′) to the southwest from the main building of a high school that was originally constructed before 1933;

(ii) The premises of any facility described under this subdivision (40)(O) means any or all of the property that constitutes the facility, including all buildings and outdoor areas between and around those buildings. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. An urban park center, as described in subdivision (40)(O)(i), may grant a franchise to one (1) or more entities authorizing such an entity to provide food or beverages, including alcoholic beverages, on its premises. A franchisee is deemed to be an urban park center under this subdivision (40)(O) and shall apply for and hold a license under this subdivision (40)(O). The commission shall enforce chapter 4 of this title against each franchisee as a licensee under this subdivision (40)(O) and shall not cite, penalize, or take any other adverse action against a franchisee for any violation committed by another franchisee on the licensed premises. There is a rebuttable presumption of liability for a specific franchisee for any underage sale based on the specific type of glass or the brand on the cup provided to the minor. In the absence of a glass or cup identifying the franchisee, the commission may determine which franchisee to cite for an underage sale. If the commission is unable to determine which franchisee com-

mitted the violation after conducting a reasonable investigation, the commission may issue a citation to one (1) or more franchisees that share the common space where the violation occurred;

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility described under this subdivision (40)(O) means, for the purpose of obtaining a beer permit, any or all of the property that constitutes the facility, including all buildings and outdoor areas between and around those buildings. The beer permittee shall designate the premises to be licensed by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. An urban park center, as described in subdivision (40)(O)(i), may grant a franchise to one (1) or more entities authorizing such an entity to provide food or beverages, including beer, on its premises. A franchisee is deemed to be an urban park center under this subdivision (40)(O) and shall apply for and hold a beer permit. The beer board shall enforce chapter 5 of this title against each franchisee as a beer permittee and shall not cite, penalize, or take any other adverse action against a franchisee for any violation committed by another franchisee on the licensed premises. There is a rebuttable presumption of liability for a specific franchisee for any underage sale based on the specific type of glass or the brand on the cup provided to the minor. In the absence of a glass or cup identifying the franchisee, the beer board may determine which franchisee to cite for an underage sale. If the beer board is unable to determine which franchisee committed the violation after conducting a reasonable investigation, the beer board may issue a citation to one (1) or more franchisees that share the common space where the violation occurred; and

(iv) The licensee described in subdivision (40)(O)(i) and any franchisee licensed under this subdivision (40)(O) may store beer and alcoholic beverages in a central storage location in the facility. Each licensee shall store its inventory of beer and alcoholic beverages in a separately locked cage or other storage area;

(P)(i) "Urban park center" also means a facility or designated area having all of the following characteristics:

*(a)* The easternmost corner of the structure that houses the facility is approximately one thousand four hundred feet (1,400′) southwest of a public park that is adjacent to a navigable waterway;

*(b)* The easternmost corner of the structure that houses the facility is approximately one thousand one hundred feet (1,100′) southeast of a public park that is adjacent to a public library constructed in 2001;

*(c)* The easternmost corner of the structure that houses the facility is approximately five hundred feet (500′) northwest of a public park that contains a walkway recognizing professionals in the music industry;

*(d)* The easternmost corner of the structure that houses the facility is approximately one thousand five hundred feet (1,500′) southwest of a railway station providing commuter rail service that employs standard gauge locomotives and coaches;

*(e)* The property that houses the facility is across a public street from a live performance venue that was originally constructed in 1892 as a religious facility;

*(f)* The property that houses the facility is adjacent to a facility originally constructed in 1925 that houses the Grand Lodge of Free and Accepted Masons of Tennessee;

*(g)* The facility is located in a mixed used development located at the intersection of a federal highway and a municipal street;

*(h)* The facility is owned, operated, or leased by a bona fide charitable or nonprofit organization;

*(i)* The facility occupies no less than fifty thousand square feet (50,000 sq. ft.) of commercial space used as a museum that offers informational and educational programming to the community, features historical exhibits, live and pre-recorded music, and may be utilized for public and private occasions, weddings, community meetings, corporate functions, and other events;

*(j)* Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

*(k)* The facility is located in a county with a metropolitan form of government having a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (40)(P) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (40)(P) means for beer permitting purposes any or all of the property that constitutes the facility. The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing; and

(iv) An urban park center licensed under this subdivision (40)(P) shall have the privilege of granting a franchise for the provision of food or beverage, including alcoholic beverages, on its premises, and the holder of the franchise is deemed to be an urban park center under this subdivision (40)(P);

(Q)(i) "Urban park center" also includes a facility possessing each of the following characteristics:

*(a)* Is owned, operated, or leased by a municipal or county government, or any agency or commission thereof;

*(b)* Has an outdoor fixed-structure stage utilized as a performance venue;

*(c)* Provides or leases facilities for concerts, plays, and programs of cultural, civic, and educational interest; and

*(d)* Is located in a municipality that has authorized the sale of alcoholic beverages for consumption on the premises, in a referendum

in the manner prescribed by § 57-3-106, and that has a population of not less than four thousand fifty (4,050) and not more than four thousand fifty-nine (4,059), according to the 2010 federal census and any subsequent federal census; and

(ii) This subdivision (40)(Q) only applies in a city with a population of not less than four thousand fifty (4,050) and not more than four thousand fifty-nine (4,059), according to the 2010 federal census and any subsequent federal census upon the adoption of an ordinance by a two-thirds (⅔) vote of its governing body;

(R)(i) "Urban park center" also means a facility possessing each of the following characteristics:

*(a)* Provides or leases facilities for flea markets, fairs, exposition events, consumer shows, indoor and outdoor sports, meetings, and banquets;

*(b)* Has a paved motorsports racetrack that is at least one-half (½) mile in length with banking in the turns of eighteen (18) degrees;

*(c)* Is located on a tract of land having at least one hundred twenty-eight (128) acres;

*(d)* Has a one (1) acre dog park and other green space that is used for parking, public recreation, and events; and

*(e)* Is owned by, and located in, a county having a metropolitan form of government and a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (40)(R) means any or all of the property that constitutes the facility, including all enclosed and outdoor areas of the property. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The designated premises may be covered under multiple licenses issued under this subdivision (40)(R) for individual facilities within the urban park center;

(iii) An urban park center licensed under this subdivision (40)(R) may grant a franchise for the provision of food or beverage, including alcoholic beverages, on its premises, and the holder of such franchise is also considered an urban park center under this subdivision (40)(R); and

(iv) An urban park center licensed under this subdivision (40)(R) shall provide a report to the commission, on or before October 1 each year, that details the gross revenue the urban park center earned from the sale of alcoholic beverages and the amount retained by, or paid to, any franchisee of the urban park center for the sale of alcoholic beverages;

(41) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was

predominantly produced, or an artificial or imitation wine; and

(42)(A) "Zoological institution" means a facility which contains a zoological garden or collection of living animals and provides for their care and housing for public exhibition and further possesses the following characteristics:

(i) The zoo is owned, operated, or leased by a municipal or county government;

(ii) The zoo is at least fifty (50) years old; and

(iii) The zoo is located in a county having a population in excess of seven hundred thousand (700,000), according to the 1980 federal census or any subsequent federal census;

(B) "Zoological institution" means a facility that contains a zoological garden or collection of living animals and provides for their care and housing for public exhibition and further possesses the following characteristics:

(i) The zoo is operated on property leased by a county having a metropolitan form of government and has been opened to the public on that property at least since 1997;

(ii) The zoo has been accredited by and maintains the accreditation of the Association of Zoos and Aquariums (AZA); and

(iii) The zoo is located in a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census;

(C) "Zoological institution" means a facility that contains a zoological garden or collection of living animals and provides for their care and housing for public exhibition and further possesses the following characteristics:

(i) The zoo is operated on property owned by a city and has been opened to the public on that property at least since 1937;

(ii) The zoo has been accredited by and maintains the accreditation of the Association of Zoos and Aquariums (AZA); and

(iii) The zoo is located in a county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census; and

(D) "Zoological institution" means a facility that contains a zoological garden or collection of living animals and provides for their care and housing for public exhibition and further possesses the following characteristics:

(i) The zoo is operated on property owned by a city and has been opened to the public on that property at least since 1948;

(ii) The zoo has been accredited by and maintains the accreditation of the Association of Zoos and Aquariums (AZA); and

(iii) The zoo is located in a county having a population of not less than three hundred eighty two thousand (382,000) nor more than three hundred eighty two thousand one hundred (382,100), according to the 2000 federal census or any subsequent federal census.

**History.**

Acts 1967, ch. 211, § 1; 1972, ch. 682, § 2; 1972, ch. 756, § 3; 1975, ch. 111, § 3; 1975, ch. 347, § 1; 1979, ch. 401, § 2; T.C.A., § 57-153; Acts 1980, ch. 895, § 1; 1980, ch. 898, § 2; 1981, ch. 404, § 2; 1981, ch. 467, §§ 1-4; 1981, ch. 475, § 2; 1982, ch. 691, § 1; 1982, ch. 931, §§ 1-4; 1983, ch. 52, § 2; 1983, ch. 300, §§ 3, 6; 1983, ch. 305, § 1; 1983, ch. 306, § 1; 1983, ch. 391, § 1; 1983, ch. 454, § 4; 1983, ch. 461, §§ 1-4; 1983, ch. 469, § 2; 1983, ch. 481, § 1; 1984, ch. 522, § 1; 1984, ch. 569, § 2; 1984, ch. 599, § 1; 1984, ch. 858, §§ 1-4; 1984, ch. 871, § 1; 1984, ch. 975, § 2; 1985, ch. 41, § 1; 1985, ch. 47, § 1; 1985, ch. 117, § 1; 1985, ch. 190, § 2; 1986, ch. 516, § 1; 1986, ch. 899, § 3; 1987, ch. 73, § 1; 1987, ch. 218, § 1; 1987, ch. 444, §§ 3, 4; 1987, ch. 456, § 1; 1988, ch. 792, § 1; 1988, ch. 942, §§ 1, 2; 1989, ch. 50, § 1; 1989, ch. 361, § 1; 1989, ch. 459, § 1; 1990, ch. 718, § 1; 1990, ch. 730, §§ 1, 2; 1990, ch. 853, § 1; 1990, ch. 949, § 1; 1991, ch. 462, § 1; 1992, ch. 674, § 2; 1992, ch. 675, § 2; 1993, ch. 308, §§ 1, 2; 1994, ch. 657, § 1; 1994, ch. 822, § 1; 1994, ch. 837, § 1; 1994, ch. 933, § 1; 1995, ch. 18, § 1; 1995, ch. 306, § 2; 1996, ch. 688, § 1; 1996, ch. 730, § 1; 1996, ch. 749, § 2; 1996, ch. 1017, § 1; 1997, ch. 146, § 1; 1997, ch. 281, §§ 1-7; 1998, ch. 722, § 1; 1998, ch. 786, § 1; 1998, ch. 795, § 6; 1998, ch. 798, § 1; 1998, ch. 939, §§ 2, 3; 1998, ch. 966, §§ 1, 2; 1999, ch. 211, § 1; 1999, ch. 314, §§ 1, 2, 4; 1999, ch. 525, § 2; 2000, ch. 657, § 2; 2000, ch. 727, § 1; 2001, ch. 64, § 2; 2001, ch. 74, § 1; 2001, ch. 84, § 1; 2001, ch. 112, §§ 1-3; 2001, ch. 371, § 2; 2001, ch. 383, §§ 2, 3; 2002, ch. 647, § 1; 2002, ch. 661, § 1; 2002, ch. 676, § 1; 2002, ch. 679, §§ 1, 2; 2002, ch. 705, §§ 1, 2; 2002, ch. 832, §§ 1, 3, 4; 2003, ch. 132, § 1; 2003, ch. 309, §§ 1, 2; 2003, ch. 314, § 1; 2004, ch. 544, § 1; 2004, ch. 671, §§ 1, 2; 2004, ch. 676, § 1; 2004, ch. 710, § 1; 2004, ch. 857, § 1; 2004, ch. 876, § 6; 2005, ch. 212, § 5; 2005, ch. 253, § 2; 2005, ch. 422, §§ 1-10; 2006, ch. 612, §§ 1-3; 2006, ch. 733, §§ 1-6, 8; 2006, ch. 865, § 1; 2007, ch. 150, §§ 1-3; 2007, ch. 203, § 1; 2007, ch. 258, § 1; 2007, ch. 342, § 1; 2007, ch. 492, § 1; 2008, ch. 634, § 2; 2008, ch. 649, § 1; 2008, ch. 653, § 1; 2008, ch. 713, § 1; 2008, ch. 784, § 1; 2009, ch. 49, § 1; 2009, ch. 98, § 1; 2009, ch. 109, § 1; 2009, ch. 168, § 1; 2009, ch. 266, §§ 1, 2; 2009, ch. 357, §§ 1, 2; 2009, ch. 572, §§ 1, 2; 2010, ch. 622, § 1; 2010, ch. 623, § 1; 2010, ch. 632, § 1; 2010, ch. 641, § 1; 2010, ch. 647, § 1; 2010, ch. 649, § 1; 2010, ch. 664, § 1; 2010, ch. 695, § 1; 2010, ch. 744, § 1; 2010, ch. 763, §§ 1-3; 2010, ch. 771, § 1; 2010, ch. 835, §§ 1-5; 2010, ch. 927, §§ 2, 3; 2010, ch. 1121, §§ 1-3; 2010, ch. 1133, §§ 2, 3; 2011, ch. 31, § 1; 2011, ch. 53, § 1; 2011, ch. 110, § 1; 2011, ch. 136, § 1; 2011, ch. 440, § 1; 2011, ch. 447, §§ 3-8, 11, 12; 2011, ch. 503, §§ 1, 2; 2012, ch. 661, § 1; 2012, ch. 790, §§ 1, 2; 2012, ch. 947, § 8; 2012, ch. 1005, §§ 1-3; 2012, ch. 1035, §§ 3, 4; 2012, ch. 1045, § 1; 2013, ch. 37, § 1; 2013, ch. 160, § 1; 2013, ch. 218, § 1; 2013, ch. 230, § 1; 2013, ch. 295, §§ 1, 2; 2013, ch. 371, § 1; 2013, ch. 458, §§ 1, 2; 2014, ch. 506, § 1; 2014, ch. 643, §§ 1-4; 2014, ch. 661, §§ 1, 2; 2014, ch. 843, §§ 1, 2; 2014, ch. 861, § 7; 2014, ch. 907, §§ 1, 3, 4; 2014, ch. 1001, §§ 1-5, 8, 10; 2015, ch. 70, § 1; 2015, ch. 116, § 1; 2015, ch. 119, § 1; 2015, ch. 269, § 4; 2015, ch. 279, § 1; 2015, ch. 336, §§ 2, 3; 2015, ch. 391, §§ 2, 3; 2015, ch. 428, § 2; 2015, ch. 446, § 1; 2015, ch. 458, §§ 1-5; 2016, ch. 791, §§ 1, 2; 2016, ch. 858, § 17; 2016, ch. 874, § 1; 2016, ch. 922, §§ 1-4; 2016, ch. 953, §§ 1-3; 2016, ch. 964, § 1; 2016, ch. 965, §§ 1, 2; 2016, ch. 1022, § 1; 2017, ch. 119, § 1; 2017, ch. 141, § 1; 2017, ch. 142, § 1; 2017, ch. 147, §§ 9-11; 2017, ch. 160, § 1; 2017, ch. 173, § 1; 2017, ch. 195, § 1; 2017, ch. 214, §§ 1-3; 2017, ch. 223, § 1. 2017, ch. 273, § 1; 2017, ch. 337, § 1; 2017, ch. 371, § 1; 2017, ch. 394, § 1; 2017, ch. 428, § 1; 2018, ch. 680, §§ 1, 2; 2018, ch. 740, §§ 1-4; 2018, ch. 755, § 4; 2018, ch. 785, § 1; 2018, ch. 787, § 1; 2018, ch. 812, § 1; 2018, ch. 847, § 1; 2018, ch. 860, §§ 1-3; 2018, ch. 912, § 1; 2018, ch. 950, §§ 1, 2; 2018, ch. 1010, §§ 1, 2; 2019, ch. 91, § 1; 2019, ch. 99, § 1; 2019, ch. 363, §§ 1-10; 2019, ch. 377, §§ 1, 2; 2019, ch. 435, §§ 2, 5; 2020, ch. 677, § 1; 2020, ch. 700, § 1; 2020, ch. 797, § 1; 2020, ch. 802, §§ 1–18; 2021, ch. 187, § 1; 2021, ch. 267, § 1; 2021, ch. 320, §§ 1–3; 2021, ch. 330, § 2; 2021, ch. 356, §§ 1–20; 2021, ch. 388, §§ 1–3; 2021, ch. 407, §§ 1, 2.

**Amendments.**

The 2018 amendment by ch. 680 added (WWWW) and (XXXX) in the definition of "premier type tourist resort".

The 2018 amendment by ch. 740 added (B) in the definition of "bed and breakfast establishment"; and added (YYYY), (ZZZZ), (AAAAA) and (BBBBB) in the definition of "premier type tourist resort".

The 2018 amendment by ch. 755 added the definition of "festival operator".

The 2018 amendment by ch. 785 added (CCCCC) in the definition of "premier type tourist resort".

The 2018 amendment by ch. 787 added (DDDDD) in the definition of "premier type tourist resort".

The 2018 amendment by ch. 812 added (P) in the definition of "urban park center".

The 2018 amendment by ch. 847 added (EEEEE) and (FFFFF) in the definition of "premier type tourist resort".

The 2018 amendment by ch. 860 added (GGGGG)-(IIIII) in the definition of "premiere type tourist resort".

The 2018 amendment by ch. 912 added (JJJJJ) and (KKKKK) in the definition of "premiere type tourist resort".

The 2018 amendment by ch. 950 added (LLLLL) in the definition of "premiere type tourist resort".

The 2018 amendment by ch. 1010 added (C) and (D) in the definition of "Sports authority facility".

The 2019 amendment by ch. 91 added (MMMMM) to the definition of "premier type tourist resort".

The 2019 amendment by ch. 99 added (E) to the definition of "sports authority facility".

The 2019 amendment by ch. 363 added (NNNNN) through (RRRRR) to the definition of "premier type tourist resort"; added (I) and (J) to the definition of "community theater"; added (31)(B) to the definition of "retirement center"; added (L) to the definition of "restaurant"; and added (Q) to the definition of "urban park center".

The 2019 amendment by ch. 377, in the definition of "premises", in (A)(iii), deleted "a" preceding "national", and inserted "historic", inserted ", whether permanently or" in (A)(iv), and added (A)(v); and, in the definition of "restaurant" rewrote (C).

The 2019 amendment by ch. 435, in the definition of "premises", added the fourth sentence in the undesignated paragraph of (A) and inserted ", or a manufacturer exercising the rights granted to it under § 57-3-202(i)(1)" in (28)(C)(i).

The 2020 amendment by ch. 677 added (8)(N) in the definition of "club".

The 2020 amendment by ch. 700 added (39)(R) in the definition of "urban park center".

The 2020 amendment, by ch. 797, added (F) in the definition of "sports authority facility".

The 2020 amendment by ch. 802, in (11), rewrote the former second sentence and deleted the former last sentence in the definition of "commercial passenger boat company", of which the two sentences read: "Such company shall operate out of any county that has a population in excess of two hundred eighty-five thousand (285,000) or not less than eighty-three thousand three hundred (83,300) nor more than eighty-three thousand four hundred (83,400), according to the 1980 federal census or any subsequent federal census. No commercial passenger boat company licensed pursuant to this chapter shall sell any type of alcoholic beverage or beer while such boat is docked within the boundaries of any local government which has not approved the sale of alcoholic beverages pursuant to § 57-4-103;"; added (13)(K) in the definition of "community theater"; added (27)(SSSSS) through (MMMMMM), in the definition of "premier type tourist resort"; and added (34)(G) in the definition of "sports authority facility".

The 2021 amendment by ch. 187 added (D) in the definition of "premises".

The 2021 amendment by ch. 267 substituted "public or private institution of higher education" for "public institution of higher education" in (E) in the definition of "Sports authority facility".

The 2021 amendment by ch. 320 added (28)(CCCCC)(iv) and (v) and (31)(M); redesignated the existing provisions of (26) as (26)(A); and added (26)(B).

The 2021 amendment by ch. 330 added the definition for "Food hall".

The 2021 amendment by ch. 356 in the definition of "premier type tourist resort" added (NNNNNN), (OOOOOO), (PPPPPP), (QQQQQQ), (RRRRRR), (SSSSSS), (TTTTTT), (UUUUUU), (VVVVVV), (WWWWWW), (XXXXXX), (YYYYYY), (ZZZZZZ), (AAAAAAA), and (BBBBBBB), and deleted (LLLLL) which read: "A commercially operated facility that:

"(i) Operates as a community performing arts and civics center in a city with a population of not less than eighteen thousand six hundred fifty (18,650) and not more than eighteen thousand six hundred fifty-nine (18,659), according to the 2010 or any subsequent federal census;

"(ii) Was originally built as a school in 1886;

"(iii) Contains an auditorium with a full stage, a proscenium arch, and seating for not less than four hundred (400) persons; and

"(iv) Contains conference and meeting rooms and a local history museum;"; added (H) to the definition of "historic performing arts center"; added (L) to the definition of "community theater"; added (H) to the definition of "sports authority facility"; and added (G) to the definition of "museum".

The 2021 amendment by ch. 388 in the definition of "community theater", added (L) and (M); added (D) to the definition of "historic interpretive center"; and in the definition of "historic performing arts center", added (H) and (I).

The 2021 amendment by ch. 407 deleted the last two sentences in the introductory paragraph which read: "Alcoholic beverages shall only be sold at the center before, during or after performances. Alcoholic beverages may be consumed inside the center at locations designated by its governing body;" in (21)(B)(ii); and added (21)(B)(ii)(a), (21)(B)(ii)(b), (21)(B)(v), (21)(B)(vi), and (21)(B)(vii).

**Effective Dates.**

Acts 2019, ch. 91, § 2. March 28, 2019.
Acts 2019, ch. 99, § 2. April 8, 2019.
Acts 2019, ch. 363, § 11. May 10, 2019.
Acts 2019, ch. 377, § 4. May 10, 2019.
Acts 2019, ch. 435, § 6. May 22, 2019.
Acts 2020, ch. 677, § 2, June 15, 2020.
Acts 2020, ch. 700, § 2, June 22, 2020.
Acts 2020, ch. 797, § 2. July 15, 2020.
Acts 2020, ch. 802, § 19. July 15, 2020.
Acts 2021, ch. 187, § 3. April 20, 2021.
Acts 2021, ch. 267, § 2. April 30, 2021.
Acts 2021, ch. 320, § 4. May 4, 2021.
Acts 2021, ch. 330, § 5. May 4, 2021.
Acts 2021, ch. 356, § 21. May 11, 2021.
Acts 2021, ch. 388, § 4. May 11, 2021.
Acts 2021, ch. 407, § 3. May 12, 2021.

**57-4-103. Applicability of chapter — Referendum — Form of question.**

(a)(1) This chapter shall be effective in any jurisdiction which authorizes the sale of alcoholic beverages for consumption on the premises in a referendum in the manner prescribed by § 57-3-106; provided, that, in addition to any other method authorized for holding an election pursuant to § 57-3-106, an election may be held for such sales upon adoption of a resolution by a two-thirds (⅔) vote of the legislative body of a county or municipality.

(2)(A) Except as provided in subdivision (a)(2)(B), if the county election commission receives the necessary resolution or the petition requesting the referendum not less than forty five (45) days before the date on which an election is scheduled to be held, except for referenda scheduled to be held with the regular November general election which shall be held pursuant to § 2-3-204, the county election commission shall include the referendum question contained in subsection (b) on the ballot.

(B) In counties having a population of not less than eight hundred twenty-five thousand (825,000) nor more than eight hundred thirty thousand (830,000), according to the 1990 federal census or any subsequent federal census, if the county election commission receives the necessary petition requesting the referendum not less than thirty (30) days before the date on which an election is scheduled to be held, the county election commission shall include the referendum question contained in subsection (b) on the ballot.

(3) If any county has authorized the sale of alcoholic beverages for sale for consumption off premises pursuant to § 57-3-106, then any municipality wholly or partially within the boundaries of the county may conduct a referendum to authorize the sale of alcoholic beverages for consumption on the premises within the corporate boundaries of the municipality.

(4)(A) If a municipality which has created a tourism development zone as defined in § 7-88-103 has not authorized the sale of alcoholic beverages for consumption on the premises in a referendum, then such municipality is authorized to conduct a referendum to authorize the sale of alcoholic beverages for consumption on the premises within the corporate boundaries of such municipality in accordance with this subdivision (a)(4). Notwithstanding § 57-3-106(c) and (f)(2), the county election commission shall place the question on the ballot of the November 2012, general election; provided, that all costs associated with the referendum election shall be paid for by the municipality to which this subdivision (a)(4) applies.

(B) The question submitted to the voters shall be in the following form for this election:

For legal sale of alcoholic beverages for consumption on the premises in _____ (here insert name of political subdivision).

Against legal sale alcoholic beverages for consumption on the premises in _____ (here insert name of political subdivision).

(5) When a municipality is located partly within a county that has a metropolitan form of government and the county has approved sales of

alcoholic beverages for consumption on the premises and partly within another county that has not approved sales of alcoholic beverages for consumption on the premises, a referendum in the municipality shall be held only in that portion of the municipality located in the county that has not approved sales of alcoholic beverages for consumption on the premises. The referendum result shall not affect the sale of alcoholic beverages for consumption on the premises in the portion of the municipality located in the county having a metropolitan form of government.

(6) If any municipality located in any county having a population of not less than sixty-six thousand two hundred (66,200) nor more than sixty-six thousand three hundred (66,300), according to the 2010 federal census or any subsequent federal census, has authorized the sale of alcoholic beverages for consumption on the premises in a referendum in the manner prescribed by § 57-3-106, then any municipality having a population of not less than eight hundred fifty-five (855) nor more than eight hundred sixty-five (865) located within the boundaries of such county may conduct a referendum to authorize the sale of alcoholic beverages for consumption on the premises within the corporate boundaries of such municipality, notwithstanding the population requirements of § 57-3-101(a)(13) or § 57-3-106(b)(1). The referendum shall be conducted in the manner prescribed by § 57-3-106.

(7) If any municipality located in any county having a population of not less than twenty-nine thousand four hundred (29,400) nor more than twenty-nine thousand five hundred (29,500), according to the 2010 federal census or any subsequent federal census, has authorized the sale of alcoholic beverages for consumption on the premises in a referendum in the manner prescribed by § 57-3-106, then any municipality having a population of not less than five hundred thirty (530) nor more than five hundred thirty-nine (539), according to the 2010 federal census or any subsequent federal census, located within the boundaries of such county, may conduct a referendum to authorize the sale of alcoholic beverages for consumption on the premises within the corporate boundaries of such municipality, notwithstanding the population requirements of § 57-3-101(a)(14) or § 57-3-106(b)(1). The referendum shall be conducted in the manner prescribed by § 57-3-106.

(8) If any municipality located in any county having a population of not less than forty-one thousand eight hundred (41,800) nor more than forty-one thousand nine hundred (41,900), according to the 2010 federal census or any subsequent federal census, has authorized the sale of alcoholic beverages for consumption on the premises in a referendum in the manner prescribed by § 57-3-106, then any municipality having a population of not less than four hundred sixty (460) nor more than seven hundred eighty-five (785), according to the 2010 federal census or any subsequent federal census, located within the boundaries of such county, may conduct a referendum to authorize the sale of alcoholic beverages for consumption on the premises within the corporate boundaries of such municipality, notwithstanding the population requirements of § 57-3-101(a)(14) or § 57-3-106(b)(1). The referendum must be conducted in the manner prescribed by § 57-3-106.

(9) If any municipality located in any county having a population of not less than sixty-six thousand two hundred (66,200) nor more than sixty-six

thousand three hundred (66,300), according to the 2010 federal census or any subsequent federal census, has authorized the sale of alcoholic beverages for consumption on the premises in a referendum in the manner prescribed by § 57-3-106, then any municipality having a population of not less than three hundred ten (310) nor more than three hundred nineteen (319), according to the 2010 federal census or any subsequent federal census, located within the boundaries of such county, may conduct a referendum to authorize the sale of alcoholic beverages for consumption on the premises within the corporate boundaries of such municipality, notwithstanding the population requirements of § 57-3-101(a)(14) or § 57-3-106(b)(1). The referendum must be conducted in the manner prescribed by § 57-3-106.

(b) At any such election, the only question submitted to the voters shall be in the following form:

For legal sale of alcoholic beverages for consumption on the premises in _____ (here insert name of political subdivision).

Against legal sale of alcoholic beverages for consumption on the premises in _____ (here insert name of political subdivision).

**History.**

Acts 1967, ch. 211, § 4; 1971, ch. 59, § 1; 1972, ch. 510, § 1; 1975, ch. 71, §§ 1, 2; 1977, ch. 445, § 1; modified; T.C.A., § 57-164; Acts 1984, ch. 877, § 1; 1987, ch. 456, § 2; 1988, ch. 551, § 1; 1992, ch. 711, § 1; 1993, ch. 518, §§ 18, 21; 1998, ch. 618, § 2; 2005, ch. 262, § 1; 2006, ch. 607, § 1; 2007, ch. 52, § 1; 2008, ch. 778, §§ 1, 2; 2011, ch. 447, §§ 9, 10; 2012, ch. 1035, §§ 1, 2; 2015, ch. 201, § 2; 2018, ch. 692, § 2; 2018, ch. 891, § 2; 2021, ch. 237, § 2.

**Amendments.**

The 2021 amendment substituted "nor more than seven hundred eighty-five (785)" for "nor more than four hundred seventy (470)" in (a)(8).

**Effective Dates.**

Acts 2021, ch. 237, § 3. April 22, 2021.

## 57-4-106. Authority to serve or sell high alcohol content beer if authorized to serve or sell wine.

If a premises is authorized pursuant to this chapter to serve or sell wine only, the premises shall also be authorized to serve or sell high alcohol content beer, as defined in § 57-3-101.

**History.**

Acts 2006, ch. 733, § 7; 2014, ch. 861, § 8; 2019, ch. 435, § 3.

**Amendments.**

The 2019 amendment substituted "serve or sell" for "sell" twice.

**Effective Dates.**

Acts 2019, ch. 435, § 6. May 22, 2019.

## 57-4-110. Interest of licensed manufacturer in licensed establishment.

(a) Notwithstanding any law or rule to the contrary, a manufacturer licensed under § 57-3-202 may have a direct or indirect interest in any establishment licensed pursuant to this part; provided, that such interest is held in an irrevocable trust by an independent trustee.

(b) [Deleted by 2019 amendment.]

**History.**
Acts 2017, ch. 371, § 3; 2019, ch. 94, § 2.

**Amendments.**
The 2019 amendment deleted (b), which read: "This section is deleted on July 1, 2019, and shall no longer be effective on and after such date."

**Effective Dates.**
Acts 2019, ch. 94, § 3. March 28, 2019.

## 57-4-111. Sale or transfer of alcoholic beverage inventory.

Notwithstanding any other law to the contrary, a retailer licensed pursuant to § 57-4-101 that is selling the licensed establishment to a new licensee of the same license type or that is closing the licensed establishment may sell or transfer its alcoholic beverages to the purchasing entity or person or to another establishment of the same license type held by the closing licensee, if:

(1) The selling or closing licensee submits written notice to the commission and the department of revenue at least ten (10) days in advance of the sale or transfer to dispose of the licensee's remaining inventory. The commission shall determine the form of such notice and the method by which the notice must be provided. The notice must identify the licensee who is purchasing or receiving the inventory, the proposed date of the sale or transfer, and the quantity, types, and brands of alcoholic beverages to be sold or transferred;

(2) All invoices and debts related to alcoholic beverages being sold or transferred pursuant to this section are paid in full prior to the alcoholic beverages being sold or transferred; and

(3) The purchaser or transferee is licensed by the commission under § 57-4-101 prior to the sale or transfer being finalized.

**History.**
Acts 2021, ch. 76, § 3.

**Effective Dates.**
Acts 2021, ch. 76, § 4. March 29, 2021.

## 57-4-112. Drive-through, pickup, and carryout orders of alcoholic beverages and beer. [Effective until July 1, 2023. See Compiler's Notes.]

(a) Notwithstanding any law to the contrary, a restaurant, limited service restaurant, or wine-only restaurant licensed under this chapter may offer drive-through, pickup, and carryout orders of alcoholic beverages and beer at the licensee's place of business if the sale of alcoholic beverages and beer for consumption off the licensee's premises:

(1) Is accompanied by the sale of prepared food in the same order;

(2) Is packaged in a bottle or can with a secure cap or in a container that is secured by tape which secures the lid, covers any openings in the lid, and which would show that it has been opened; and

(3) Consists of, per purchase, not more than:

(A) A single serving of alcoholic beverages, not to exceed sixteen fluid ounces (16 fl. oz.), or beer as authorized by the local beer board; or

(B) A container of wine that may be lawfully sold within this state.

(b) A licensee selling alcoholic beverages and beer under this section shall post a conspicuous sign containing the following language:

A driver shall not consume alcoholic beverages or beer while operating a motor vehicle in this state.

(c) This section does not authorize a licensee to sell bottles of distilled spirits.

(d) An employee of a licensee shall not provide alcoholic beverages or beer to a person under twenty-one (21) years of age or who is visibly intoxicated. An employee of a licensee who is providing alcoholic beverages or beer shall inspect a valid, government-issued photo identification card that is acceptable to the licensee and that contains the photograph and birthdate of the purchaser confirming that the purchaser is at least twenty-one (21) years of age.

(e) Sales of alcoholic beverages and beer made under this section must be in accordance with the hours for sale of alcoholic beverages under § 57-4-203(d) or beer under § 57-5-301(b), as applicable.

(f) A licensee shall collect the liquor by the drink tax imposed on alcoholic beverages under § 57-4-301(c)(1) for all sales of alcoholic beverages made under this section in accordance with § 57-4-301(c)(2). A licensee shall not collect such tax on the sale of beer.

(g) As used in this section, "licensee" means a restaurant, limited service restaurant, or wine-only restaurant licensed under this chapter to sell alcoholic beverages and beer by the drink for consumption on the premises.

**History.**

Acts 2021, ch. 451, § 1.

**Compiler's Notes.**

For the Preamble to the act concerning the pandemic's impact on the food and beverage industry, please see Acts 2021, ch. 451.

Acts 2021, ch. 451, § 4 provided that the act is only effective in jurisdictions that have passed referenda authorizing the retail sale of liquor and the sale of liquor by the drink under Title 57.

Acts 2021, ch. 451, § 5 provided the provisions contained in the act terminate on July 1, 2023, and the law in effect prior to the act's effective date [May 14, 2021] must be restored.

**Effective Dates.**

Acts 2021, ch. 451, § 5. May 14, 2021.

# PART 2

# ADMINISTRATION, ENFORCEMENT, PROHIBITED ACTS

## 57-4-201. Alcoholic beverage commission to administer law — Permits — Procedure — Rules and regulations.

(a)(1) The commission created pursuant to chapter 1 of this title, has the authority to administer parts 1-3 of this chapter.

(2) The commission shall make regulations, not inconsistent with this chapter, for clarifying, interpreting, carrying out and enforcing the terms of this chapter, for ensuring the proper and orderly conduct of business by licensees, and for regulating all advertising of alcoholic beverages by licensees.

(3) Expiration of the licenses granted pursuant to this chapter shall be as provided by § 57-3-213(a), (b) and (c).

(4) Further, all the provisions of §§ 57-3-214 and 57-3-404(a) and (b), shall apply to licensees under this chapter.

(b)(1) Any person, firm or corporation owning any hotel, convention center, premier type tourist resort, restaurant, food hall, club, historic performing

arts center, community theater, theater, historic interpretive center, urban park center, zoological institution, public aquarium, museum, historic mansion house site or commercial passenger boat company as defined in § 57-4-102, desiring to sell wine or other alcoholic beverages for consumption on its premises where food may be served, shall make application to the commission in duplicate on forms furnished by the commission for a permit so to do. The commission is authorized to issue a limited permit to a restaurant making application under § 57-4-101(c)(1), authorizing such restaurant to serve wine but not any other alcoholic beverages. Notwithstanding § 57-3-803, the commission is authorized to issue a limited license to a retail food store authorizing a restaurant within a retail food store to serve wine but no other alcoholic beverages within a designated area within the retail food store. A retail food store may receive a restaurant license under this section without complying with seating requirements or requirements regarding minimum food sales for a wine only licensee as long as the retail food store provides prepared food for sale to customers and pays a license fee equal to the license fee in § 57-4-301(b)(1)(R)(vii). Any person, firm or corporation desiring to sell wine or other alcoholic beverages for consumption on the premises of any terminal building of a commercial air carrier airport as defined in § 57-4-102, or of a commercial airline travel club as defined in § 57-4-102, or of a sports authority facility as defined in § 57-4-102, shall make application to the commission in duplicate on forms furnished by the commission for a permit to do so. No person, firm or corporation shall be authorized to engage in making such sales until the permit therefor is approved and issued by the commission.

(2) No license may be granted hereunder to any establishment when any person, firm or corporation having at least a five percent (5%) ownership interest in the establishment has been convicted within ten (10) years prior to the application for a license hereunder of a violation of the laws governing the sale or manufacture of alcoholic beverages or of any felony.

(3)(A) If a license has been issued to an establishment as a restaurant pursuant to § 57-4-102 and such licensee desires to exchange its license as a restaurant for a license as a limited service restaurant, the commission may issue the establishment a license as a limited service restaurant in accordance with Chapter 1133 of the Public Acts of 2010, upon the filing of an application by the licensee for the issuance of a license as a limited service restaurant, together with the payment of the application fee required pursuant to § 57-4-301(b)(1) and a sworn statement indicating the gross revenue from the previous year derived from food sales and the gross revenue derived from liquor sales, and, if approved, paying the license fee, or the prorated difference between its restaurant license fee and the license fee, if applicable, required pursuant to § 57-4-301(b)(1)(W). Such statement shall determine the appropriate license fee to be paid. It is the intent that on-premises licenses permitting the sale of alcoholic beverages at restaurants shall not be required to fulfill any other requirements in order to be issued a license to serve alcoholic beverages as a limited service restaurant.

(B) Should the commission find that any restaurant fails to satisfy the requirements of § 57-4-102(31)(A) but would otherwise qualify as a

limited service restaurant, such establishment shall be permitted thirty (30) days following such finding to elect to exchange its license for a limited service restaurant license upon paying to the commission a new application fee and the prorated difference between its restaurant license fee and the license fee required pursuant to § 57-4-301(b)(1)(X).

(C) For purposes of exchanging a restaurant license as a limited service restaurant license, if the licensee had been issued a license by the alcoholic beverage commission as a restaurant, the initial license fee shall be based on the percentage of gross sales the establishment generated from the service of meals during the year previous to the year the license as a limited service restaurant is requested.

(D) Any establishment applying for a renewal of its license shall submit a sworn statement indicating the gross revenue from the previous year derived from food sales and the gross revenue derived from liquor sales. Such statement shall determine the license fee to be paid pursuant to § 57-4-301(b)(1)(X).

(E)(i) If a license is requested by an applicant who does not hold an existing license as a restaurant, it shall be a rebuttable presumption that the amount of gross sales from prepared food will be between zero percent (0%) but not more than fifteen percent (15%). An applicant may rebut the presumption by including with the application a business plan which indicates the gross sales from prepared food will be higher than fifteen percent (15%). The commission shall advise each applicant of the applicant's right to include with the application a business plan which includes a projection of the amount of gross sales of prepared food and in such case, the commission shall assess the appropriate license fee based on such projection.

(ii) Any establishment applying for a renewal of its license as a limited service restaurant shall submit a sworn statement indicating the percentage of gross revenue for the previous year derived from food sales and the gross revenue derived from sales of alcoholic beverages. If the statement indicates the gross sales from prepared food was higher than the initial projection or higher than the amount actually sold in the previous year, requiring the payment of a lower licensure fee, the commission shall refund the difference to the licensee within thirty (30) days of the date the statement is filed with the commission. If the statement indicates the gross sales from prepared food was less than the projection or than the amount actually sold in the previous year, requiring the payment of a higher licensure fee, the commission shall require the licensee to pay to the commission the difference between the licensure fee actually paid at the time the renewal fee is paid.

(c)(1) Any club seeking to obtain a license under this chapter shall, as a condition precedent to its obtaining such license, cause to be printed in a newspaper of general circulation in the county or municipality where such club is located a public notice that the club is seeking a license from the commission to sell liquor by the drink. The notice shall include the name and address of each officer of such club, the address of the location of the club, an indication of the number of regular dues paying members, and the name and

address of the individual to be in actual charge of the sale of alcoholic beverages. The commission is authorized to promulgate rules and regulations further establishing the content and format of such notice.

(2) Any club seeking to obtain a license under this chapter shall submit with its application a certificate signed by the county mayor or chair of the county commission in which the club is located if outside the corporate limits of a municipality or, if within a municipality, from the mayor or a majority of the commission, city council or legislative body of the municipality by whatsoever name designated, or if the municipality has no mayor, from the highest executive of the municipality. The certificate must state that the persons to be in actual charge of the sale of alcoholic beverages are of good moral character and are personally known to the official or officials signing the certificate, or that such official or officials have made careful investigation of the person's or persons' general character, and from such investigation it is found to be good. In the event the club is unable to obtain such certificate from the proper certifying official, the applicant shall file with the commission with the applicant's application a petition in duplicate stating that the applicant has made application to the certifying official for the certificate and same has been wrongfully, illegally or arbitrarily refused, and otherwise setting forth reasons why the applicant is entitled to such license, notwithstanding the refusal aforementioned, and the manner in which the refusal is wrongful, illegal or arbitrary. The commission shall hold a hearing to determine whether the license shall be issued. The hearing shall be conducted pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The commission shall make such order granting or refusing the license as, in its discretion, the entire record at such hearing shall justify, and such order shall be effective from its date.

(3) This subsection (c) shall not be applicable to any club having a license on May 1, 1980, or to the renewal of a license for such club.

(d) The commission shall have authority to require an applicant, under oath, to disclose the following information:

(1) The name of the applicant;

(2) Location of the hotel, convention center, premier type tourist resort, restaurant, club, historic performing arts center, community theater, theater, historic interpretive center, urban park center, zoological institution, public aquarium, museum, historic mansion house site, terminal building of a commercial air carrier airport, commercial airline travel club, commercial passenger boat company, or sports authority facility;

(3) Sufficient data to establish that applicant meets the requirements of §§ 57-3-110, 57-4-101, 57-4-102;

(4) The true owner thereof;

(5) That neither the applicant nor any person to be employed in the serving of beverages authorized herein shall be a person who has been convicted of any violation of the laws against possession, sale, manufacture or transportation of intoxicating liquor or of any felony within eight (8) years prior to the application for a license hereunder;

(6) That the manager and/or operator of the hotel, convention center, premier type tourist resort, restaurant, club, zoological institution, public

aquarium, museum, community theater, theater, historic interpretive center, historic performing arts center, establishment in a terminal building of a commercial air carrier airport, commercial airline travel club, commercial passenger boat company, or sports authority facility seeking such permit is of good moral character; and

(7) Such other relevant information as may be required by the commission.

(e) The commission is authorized to promulgate rules and regulations governing its procedure but it shall consider all applications promptly.

(f)(1) Notwithstanding any provision of this title to the contrary, an entity that holds a license to manufacture high alcohol content beer issued by the commission shall be authorized to sell on its premises beer or high alcohol content beer which has been brewed on such premises, for consumption on its premises without the requirement of an additional license under this part. Any sale of high alcohol content beer by such manufacturer or brewery shall be subject to the tax imposed by § 57-4-301(c).

(2) Any manufacturer or brewery electing to effect sales of beer or high alcohol content beer for consumption on its premises must advise the commission as to the designated area where such sales will occur and shall be subject to the conditions of § 57-4-203 for such sales, except such manufacturer or brewery may effect sales for off-premises consumption pursuant to § 57-3-202(h).

(g) Notwithstanding any law or rule to the contrary, upon collection of a fifty-dollar licensing fee, the commission may issue temporary licenses not to exceed thirty (30) days to any new applicant for a license issued pursuant to this chapter.

**History.**

Acts 1967, ch. 211, § 1; 1970, ch. 451, § 1; 1972, ch. 682, § 3; 1972, ch. 756, § 4; 1979, ch. 401, § 3; T.C.A., § 57-154; Acts 1980, ch. 895, § 2; impl. am. Acts 1980, ch. 898, § 1; Acts 1981, ch. 232, § 1; 1981, ch. 447, § 1; 1981, ch. 475, §§ 3, 4; 1983, ch. 52, §§ 3-5; 1983, ch. 300, § 4; 1983, ch. 469, §§ 3-5; 1984, ch. 975, §§ 3-5; 1986, ch. 643, § 1; 1986, ch. 899, §§ 4-6; 1987, ch. 444, §§ 5-7; 1991, ch. 219, § 3; 1992, ch. 674, §§ 3-5; 1998, ch. 939, §§ 4, 5; 2001, ch. 74, § 3; 2003, ch. 90, § 2; 2010, ch. 1133, § 5; 2011, ch. 448, § 14; 2012, ch. 947, § 1; 2014, ch. 861, § 24; 2014, ch. 915, § 2; 2015, ch. 391, § 1; 2016, ch. 830, § 2; 2021, ch. 330, § 4.

**Amendments.**

The 2021 amendment substituted "restaurant, food hall, club" for "restaurant, club" in (b)(1).

**Effective Dates.**

Acts 2021, ch. 330, § 5. May 4, 2021.

## 57-4-202. Revocation or suspension of permits — Pilot project concerning local and municipal beer boards.

(a) The commission shall have authority to revoke or suspend any permit granted herein for the violations of any applicable provision of this chapter, and any person aggrieved by the action of this commission in revoking or suspending a permit, or in refusing to grant a permit, may have such action reviewed as provided by the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b)(1) As a pilot project to terminate July 1, 2014, unless extended by the general assembly, if, pursuant to § 57-5-108(n), a local or municipal beer board responsible for controlling the sale of beer or malt beverages within

any county included within subsection (d), sends a certified letter, return receipt requested to the executive director of the alcoholic beverage commission providing notice that the beer board has suspended or revoked the permit of an establishment for a violation of chapter 5 of this title, upon receipt of the certified letter, the executive director of the alcoholic beverage commission shall:

(A) Schedule a show-cause hearing for the next regularly scheduled meeting of the commission to be held at least fourteen (14) days following the date the executive director receives the certified letter to provide an opportunity for the licensee to appear and show cause why the license to sell alcoholic beverages on the premises should not be suspended or revoked for violations of this chapter based on actions taken by the beer board pursuant to § 57-5-108(n); and

(B) Notify the individual or business entity, which is listed as the licensee at the same location where the beer permit had been suspended or revoked, of the date and time of the show-cause hearing.

(2) If the alcoholic beverage commission finds that a sufficient violation or violations of this chapter have occurred at such location, then the commission shall suspend or revoke the license of the establishment to the same extent and at least for the same period of time as the beer board has suspended or revoked the permit of the establishment pursuant to § 57-5-108(n).

(3) If the licensee fails to appear or decides to surrender the license to the alcoholic beverage commission in lieu of appearing at the show-cause hearing, the license shall be suspended or revoked by the commission, and no license to sell alcoholic beverages on the premises shall be issued by the commission to any person for the location where the beer board suspended or revoked the license or permit pursuant to § 57-5-108(n) for the period of time included in the decision of the beer board.

(4) Notwithstanding § 57-1-201(b)(1), the alcoholic beverage commission shall not have the authority to and shall not issue a fine in lieu of suspending or revoking the license of an establishment whose license had been suspended or revoked by the beer board pursuant to § 57-5-108(n).

(5) The decision of the alcoholic beverage commission is final, and any party aggrieved thereby may appeal the decision of the commission in accordance with the Uniform Administrative Procedures Act.

(c)(1)(A) As a pilot project to terminate July 1, 2014, unless extended by the general assembly, when the alcoholic beverage commission suspends the license to sell alcoholic beverages on the premises at any establishment within any county included within subsection (d), for any violation or violations, as defined in this chapter, the commission is authorized to notify the local or municipal beer board responsible for controlling the sale of beer or malt beverages within such county by certified mail, return receipt requested, of the action taken by the commission. Such notice shall include the record of evidence and the determination made by the alcohol beverage commission in suspending or revoking the license.

(B) Upon receipt of such notice, the local or municipal beer board shall take the actions required pursuant to § 57-5-108(o) with respect to

violations as defined in chapter 5 of this title related to the permit for the sale of beer or malt beverages for consumption on the premises at the location where the violation of this chapter occurred.

(2) The suspension or revocation decision of the commission made pursuant to subdivision (c)(1)(A) is final, and any party aggrieved thereby may appeal the decision of the commission in accordance with the Uniform Administrative Procedures Act.

(d) The pilot project established by subsections (b) and (c) shall only apply in counties having a population, according to the 2010 federal census or any subsequent federal census, of:

| not less than | nor more than |
|---|---|
| 6,800 | 6,900 |
| 19,100 | 19,150 |
| 22,600 | 22,675 |
| 32,200 | 32,300 |
| 35,600 | 35,700 |
| 51,400 | 51,500 |
| 56,800 | 56,900 |
| 336,400 | 336,500 |
| 432,200 | 432,300 |

(e) [Deleted by 2020 amendment.]

**History.**

Acts 1967, ch. 211, § 1; 1979, ch. 374, §§ 1, 2; T.C.A., §§ 57-152, 57-155; Acts 2012, ch. 881, § 2; 2013, ch. 236, § 68; 2020, ch. 711, § 10.

**Amendments.**

The 2020 amendment deleted former (e) which read: "(e) The executive director of the alcoholic beverage commission shall file a report with the state and local government committee of the senate and the state government committee of the house of representatives no later than March 15, 2014, on the success or failure of the pilot project created pursuant to subsections (b) and (c) and § 57-5-108(n) and (o), together with the executive director's recommendations as to whether the pilot project should be extended, continued or terminated and recommendations for legislative action, if any are required, based on the executive director's findings. The report, at a minimum, shall contain:

"(1) The number of permits or licenses suspended or revoked;

"(2) Whether such suspensions or revocations were appealed;

"(3) The extent to which a court upheld or overturned such suspensions or revocations;

"(4) Whether licensees or permittees surrendered their license or permit in lieu of having a license suspended or revoked;

"(5) Whether a new license or permit was issued to the same person or business entity for a new or the same location, if such person or business entity had previously surrendered a license or permit in accordance with subdivision (e)(4); and

"(6) The effect the implementation of the pilot project had on the activities of the establishments holding licenses and permits issued by the alcoholic beverage commission or the local or municipal beer board responsible for controlling the sale of beer within the locality impacted by the pilot project."

**Effective Dates.**

Acts 2020, ch. 711, § 11, June 15, 2020.

## 57-4-203. Prohibited practices — Hours of sale — Authority of commission — Penalties.

(a) **Exterior Signs.**

(1) No licensee shall place any sign of any description on the exterior of the licensee's hotel, convention center, premier type tourist resort, restaurant, or club which is not in compliance with all duly adopted local ordinances

relative to such exterior signs.

(2) A violation of subdivision (a)(1) is a Class C misdemeanor.

(b) **Sales to Minors Prohibited.**

(1)(A) Any licensee or other person who sells, furnishes, disposes of, gives, or causes to be sold, furnished, disposed of, or given, any alcoholic beverage to any person under twenty-one (21) years of age commits a Class A misdemeanor and shall be punished in accordance with § 39-15-404, as well as any other applicable section.

(B) Any licensee engaging in business regulated hereunder or any employee thereof who sells, furnishes, disposes of, gives, or causes to be sold, furnished, disposed of, or given any beer or malt beverage as defined in § 57-6-102 to any person under twenty-one (21) years of age is guilty of a Class A misdemeanor.

(C) The commission may, upon finding that a licensee has violated subdivision (b)(1)(A) or (b)(1)(B) two (2) or more times during any two-year period, and for good cause shown, fine the licensee not more than ten thousand dollars ($10,000) and require retraining of all employees of the licensee under the supervision of the commission in lieu of suspending or revoking the license of the licensee.

(2) Any person under the age of twenty-one (21) years who:

(A) Purchases, attempts to purchase, receives, or has in such person's possession in any public place, any alcoholic beverage, commits a Class A misdemeanor; or

(B) Knowingly makes a false statement or exhibits false identification to the effect that the licensee is twenty-one (21) years of age or older to any person engaged in the sale of alcoholic beverages for the purpose of purchasing or obtaining the same commits a Class A misdemeanor.

(i) If a person violating this subdivision (b)(2)(B) is less than eighteen (18) years of age, such person shall be punished by a fine of fifty dollars ($50.00) or not less than twenty (20) hours of community service work, which fine or penalty shall not be suspended or waived. The fine imposed by this subdivision (b)(2)(B)(i) shall apply regardless of whether the violator cooperates with law enforcement officers by telling them the place the alcohol was purchased or obtained or from whom it was purchased or obtained.

(ii) If the person violating this subdivision (b)(2)(B) is eighteen (18) years of age or older but less than twenty-one (21) years of age, such person shall be punished by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200) or by imprisonment in the local jail or workhouse for not less than five (5) days nor more than thirty (30) days. The penalties imposed by this subdivision (b)(2)(B)(ii) apply regardless of whether the violator cooperates with law enforcement officers by telling them the place the alcohol was purchased or obtained or from whom it was purchased or obtained.

(C)(i) In addition to any criminal penalty established by this section, a court in which a person younger than twenty-one (21) years of age is

convicted of the purchase, attempt to purchase or possession of alcoholic beverages, or the making of a false statement or exhibition of false identification for the purpose of purchasing or obtaining alcoholic beverages in violation of this section, shall prepare and send to the department of safety, driver control division, within five (5) working days of the conviction an order of denial of driving privileges for the offender.

(ii) The court and the department of safety shall follow the same procedures and utilize the same sanctions and costs for an offender younger than twenty-one (21) years of age but eighteen (18) years of age or older as provided in title 55, chapter 10, part 7, for offenders younger than eighteen (18) years of age but thirteen (13) years of age or older.

(3) This chapter does not prohibit any person eighteen (18) years of age or older from selling, transporting, possessing or dispensing alcoholic beverages in the course of such person's employment.

(c) **Other Prohibited Sales.**

(1) It is unlawful for any licensee or other person to sell or furnish any alcoholic beverage to any person who is known to be insane or mentally defective, or to any person who is visibly intoxicated, or to any person who is known to habitually drink alcoholic beverages to excess, or to any person who is known to be an habitual user of narcotics or other habit-forming drugs.

(2) A violation of subdivision (c)(1) is a Class A misdemeanor.

(d) **Hours of Sale.**

(1) Except as provided in subdivision (d)(5), hotels, clubs, zoological institutions, public aquariums, museums, motels, convention centers, restaurants, community theaters, theater, historic interpretive centers, sports authority facilities, and urban park centers, licensed as provided herein to sell alcoholic beverages, and/or malt beverages, and/or wine may not sell, or give away, alcoholic beverages and/or malt beverages and/or wine between the hours of three o'clock a.m. (3:00 a.m.) and eight o'clock a.m. (8:00 a.m.) on weekdays, or between the hours of three o'clock a.m. (3:00 a.m.) and twelve o'clock (12:00) noon on Sundays.

(2) Except as provided in subdivision (d)(5), hotels, motels and restaurants, licensed under § 57-4-102(28)(B) may not sell or give away alcoholic beverages, and/or malt beverages and/or wine between the hours of one o'clock a.m. (1:00 a.m.) and eight o'clock a.m. (8:00 a.m.) on weekdays or between the hours of one o'clock a.m. (1:00 a.m.) and twelve o'clock (12:00) noon on Sundays.

(3) Except as provided in subdivision (d)(5), establishments in a terminal building of a commercial air carrier airport and commercial airline travel clubs licensed as provided herein to sell alcoholic beverages, and/or malt beverages, and/or wine, may not sell, or give away, alcoholic beverages and/or malt beverages and/or wine between the hours of three o'clock a.m. (3:00 a.m.) and eight o'clock a.m. (8:00 a.m.) on weekdays or between the hours of three o'clock a.m. (3:00 a.m.) and twelve o'clock noon (12:00) on Sundays.

(4) Except as provided in subdivision (d)(5), licensees under § 57-4-102(29) may not sell or give away alcoholic beverages and/or malt beverages

and/or wine between the hours of five o'clock a.m. (5:00 a.m.) and eight o'clock a.m. (8:00 a.m.) on weekdays or between the hours of five o'clock a.m. (5:00 a.m.) and twelve o'clock (12:00) noon on Sundays. Notwithstanding this subdivision (d)(4), a municipality in which a premise is located under § 57-4-102(29)(D) may, by the adoption of an ordinance by the municipality's governing body, reduce or prescribe the hours and days upon which alcoholic beverages, beer, and wine may be consumed upon such premises; provided, that the ordinance does not expand such hours and days beyond the limitations of this subdivision (d)(4).

(5) The commission is authorized to extend the hours of sale in the jurisdictions which have approved the sale of liquor by the drink by referendum; provided, however, that such extension of hours as well as § 57-5-301(b)(5) shall apply to Sunday sales of beer within the area of the county outside a municipality which approves liquor by the drink by referendum unless the county legislative body by a two-thirds (⅔) vote sets the hours for Sunday sales of beer in accordance with § 57-5-301(b)(1) to apply within such area. Upon petition by any licensee or group of licensees under this chapter, the commission may, after conducting a rule-making hearing pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, adopt rules expanding the hours during which it is legal to sell or give away alcoholic beverages, malt beverages and wine, pursuant to this chapter. The commission is hereby directed to consider such factors as the hours of sales in contiguous states and the need to compete with jurisdictions elsewhere in the country for convention and tourism business. The governing body of any municipality or metropolitan government which has approved liquor by the drink by referendum may, at any time, opt out of any extension of hours adopted under this section by passage of a resolution. Further, any municipality or metropolitan government that has opted out may, at a later date, opt in by passage of a resolution.

(6) Except as provided in subdivision (d)(5), licensees under § 57-4-102(31)(J) and (K) shall not sell or give away alcoholic beverages, malt beverages, or wine between the hours of three o'clock a.m. (3:00 a.m.) and four o'clock a.m. (4:00 a.m.).

(e) **Restrictions on Sealed or Unsealed Packages, or Gifts.**

(1) No licensee hereunder shall sell any wine or other alcoholic beverage in any sealed or unsealed package to any patrons or customers for consumption off its premises. Notwithstanding the foregoing, a restaurant licensed under this chapter may permit a customer who purchases an unsealed package of wine in conjunction with a food purchase and consumes a portion of the wine on the premises to remove the partially filled package from the premises. In addition, a licensee holding a license issued pursuant to §§ 57-4-102(14) and (35) may sell and distribute alcoholic beverages and wine in unsealed containers to the occupant of a suite located within a sports authority facility or a convention center; provided, that such occupant is at least twenty-one (21) years of age, is authorized by the lessee of the suite to receive such alcoholic beverages and wine, and the alcoholic beverage or wine is not removed from the sports authority facility or convention center.

(2) A licensee shall not give away any such sealed package or any drink of

wine or alcoholic beverage to any patron or customer; provided, that:

(A) A hotel licensed under this chapter may include as part of the accommodations to a registered guest the provision of up to four (4) seven hundred fifty milliliter (750 ml.) or smaller complimentary sealed packages of wine or alcoholic beverages for which all applicable taxes have been paid; and

(B) A licensee may serve a sample of wine to a patron or customer that does not exceed one ounce (1 oz.).

(3) The tax required by chapter 4, part 3 of this title shall be paid upon the normal sales price of any such packages of wines provided under this subsection (e).

(4) A restaurant or limited service restaurant may sell beer for consumption off premises upon meeting the requirements of § 57-5-101(c)(1)(B).

(5) **[Effective until July 1, 2023; See Compiler's Notes.]** Notwithstanding this subsection (e) to the contrary, in addition to any manner in which a licensee may sell alcoholic beverages or beer under this subsection (e), a restaurant, limited service restaurant, or wine-only restaurant licensed under this chapter may sell alcoholic beverages and beer in accordance with § 57-4-112.

(f) **[Effective until July 1, 2023. See version effective July 1, 2023, and see Compiler's Notes.] Method of Sale.** Sales of wine and alcoholic beverages by licensees hereunder shall be conducted in the same manner as the sale of food is regularly conducted by such hotels, convention centers, premier type tourist resorts, restaurants, or clubs, except that no curb service of such beverages is lawful other than the sale of alcoholic beverages and beer in accordance with § 57-4-112.

(f) **[Effective July 1, 2023. See version effective until July 1, 2023, and see Compiler's Notes.] Method of Sale.** Sales of wine and alcoholic beverages by licensees hereunder shall be conducted in the same manner as the sale of food is regularly conducted by such hotels, convention centers, premier type tourist resorts, restaurants, or clubs, except that no curb service of such beverages is lawful.

(g) **Ownership of Alcoholic Beverages Sold.**

(1) It is a Class C misdemeanor for any licensee hereunder to sell or serve on the licensee's premises any wine or other alcoholic beverage unless such beverage is owned outright by the licensee.

(2) It is unlawful for any person, firm or corporation to sell wine or other alcoholic beverage as authorized herein without complying with the applicable provisions of this chapter.

(3) This subsection (g) shall not apply to events held by special occasion licensees who receive donated alcoholic beverages or beer.

(h) **Restrictions on Employment.** No entity holding a license issued pursuant to § 57-4-101 shall employ any person in the serving of beer, wine or other alcoholic beverages who does not possess a server permit from the commission. It is made the duty of the licensee to see that each person dispensing or serving alcoholic beverages, wine or beer in the licensee's establishment possesses such a permit, which permit must be on the person of such employee or on the premises of the licensed establishment and subject to

inspection by the commission or its duly authorized agent when the employee is engaged in the performance of that employee's duties for the licensee.

(i) **Premises Must Be Licensed — Exception for Conventions, Social Gatherings and Catered Events.**

(1)(A) Except with respect to a caterer licensed under this chapter, it is unlawful for any person, firm, corporation, partnership, or association to allow the dispensing of alcoholic beverages except sacramental wines and beer, in any establishment unless such establishment is licensed under this title.

(B) A violation of subdivision (i)(1)(A) is a Class B misdemeanor.

(2) Bona fide conventions or meetings, however, may bring their own alcoholic beverages onto the licensed premises if the same beverages are served to delegates or guests without cost. All other provisions of this chapter shall be applicable to such premises. This section has no application to social gatherings in a private home or a private place which is not of a commercial nature or where goods or services may be purchased or sold or any charge or rent or other thing of value is exchanged for the use thereof, excepting it be for sleeping quarters. Nothing herein shall preclude the serving of alcoholic beverages to guests without cost in rooms or suites or banquet rooms of a hotel or club licensed pursuant to this chapter.

(3) A restaurant, hotel, or caterer holding a valid catering license may sell or distribute wine, beer, and other alcoholic beverages at social or commercial events, catered by the restaurant, hotel, or caterer where the restaurant, hotel, or caterer is providing food service at such event; provided, that the restaurant, hotel, or caterer shall notify the commission as to the time, location and duration of the catered event before the commencement of the event. Nothing in this subdivision (i)(3) or chapter shall be interpreted to require a person who holds a valid caterer license under this chapter to also be licensed as a restaurant or hotel.

(j) **Penalties Invoked.**

(1) Any person, firm or corporation who violates any provision of parts 1 and 2 of this chapter is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000); and, in the discretion of the court, imprisoned not less than thirty (30) days, nor more than six (6) months, and each violation constitutes a separate offense.

(2) Any person, firm or corporation who shall sell wine or other alcoholic beverages for consumption on its premises except as authorized by parts 1 and 2 of this chapter is guilty of a misdemeanor and punishable as provided in this section.

(3) Upon conviction of a second offense under this chapter, the permit of any licensee so convicted shall be automatically and permanently revoked.

(4) Upon the second conviction of any person, firm, or corporation for violation of subdivision (b)(1), such person, firm, or corporation is guilty of a Class E felony. In addition, upon the second such conviction, the permit of such licensee shall be automatically and permanently revoked regardless of any other punishment actually imposed.

(k) **Purchases by Special Occasion Licensees.**

(1) No charitable, nonprofit or political organization possessing a special occasion license shall purchase for sale or distribution under such license any alcoholic beverages from any source other than a licensee under § 57-3-204. This subsection (k) shall not apply to homemade wine made in the Swiss tradition by a member or members of a special occasion permit holder issued a license pursuant to § 57-4-102(34)(D). The member may supply the wine notwithstanding the limitations of § 57-3-207(e).

(2) A charitable, nonprofit, or political organization, or any representative thereof, may accept donations of alcoholic beverages and beer from any licensee holding a license issued pursuant to § 57-3-202, § 57-3-203, § 57-3-204, § 57-3-207, § 57-3-605 or § 57-4-101; provided, that the charitable, nonprofit, or political organization serves or sells such alcoholic beverages and beer at an event conducted by the charitable, nonprofit, or political organization as a special occasion licensee.

(*l*) **Commercial Airline Travel Clubs.** A commercial airline travel club licensed under this chapter may provide complimentary drinks of wine and alcoholic beverages to its patrons, customers, and guests. Such commercial airline travel club must have a separate area, other than the gate and ticket areas, designated as a club area for use by its members. The tax required by part 3 of this chapter shall be paid upon the normal sales price of all such complimentary drinks of wine and alcoholic beverages provided under this subsection (*l*).

(m) **Discounts.** Nothing in this chapter shall prohibit a licensee from offering a discount in such manner as the licensee deems appropriate as long as the discount being offered is not below the cost paid by the licensee to purchase the alcoholic beverages from the retailer.

(n) **Restrictions on Certain Limited Service Restaurant Licensees.** Any establishment holding a license pursuant to § 57-4-301(b)(1)(W)(iv) shall not permit alcoholic beverages to be sold on sidewalks, streets, or alleys.

(o) **Extension of Credit by Wholesalers to Retailers.**

(1) No wholesaler licensed under § 57-3-203 shall be permitted to extend credit of any retailer licensed under § 57-4-101 unless pursuant to this subsection (o). All amounts due to any wholesaler from all sales to such retailers shall be due upon delivery of the product.

(2) Notwithstanding the limitations of subdivision (o)(1), wholesalers licensed under § 57-3-203 may extend credit to a retailer licensed under § 57-4-101 for a period not to exceed ten (10) days from the date of the delivery of the product; provided, the payment is effected by electronic funds transfer or escrow prepayment.

(3) It shall create a rebuttable presumption that a retailer licensed under § 57-4-101 is not financially responsible under § 57-3-104(c)(10) if the retailer fails to satisfy its obligations to any wholesaler in accordance with each wholesaler's credit terms twice within a twelve-month period. Upon being advised by any wholesaler licensed under § 57-3-203 twice within a twelve-month period that a retailer has failed to comply with the applicable credit terms, the commission shall set a hearing as soon as practicable at its next available meeting to determine whether the retailer can rebut the presumption created by this subdivision (o)(3). Upon a finding that the

retailer is not financially responsible under § 57-3-104(c)(10), the commission may issue a fine, suspend or revoke the license, or make any other order it deems appropriate.

(4) Notwithstanding any law to the contrary, the commission is authorized to issue a citation in an amount not to exceed five hundred dollars ($500) per violation against any retailer licensed under § 57-4-101 if, upon investigation, the commission finds that the retailer has failed to satisfy its obligations to any wholesaler in accordance with each wholesaler's credit terms twice within a twelve-month period.

**History.**

Acts 1967, ch. 211, § 1; 1969, ch. 336, § 1; 1970, ch. 451, § 2; 1971, ch. 224, § 1; 1972, ch. 612, § 9; 1972, ch. 682, § 4; 1972, ch. 756, § 5; 1973, ch. 397; 1975, ch. 277, § 1; 1975, ch. 340, § 1; 1979, ch. 256, § 1; 1979, ch. 377, § 1; 1979, ch. 401, § 4; 1979, ch. 413, §§ 3, 4; T.C.A., § 57-156; Acts 1980, ch. 771, § 3; 1981, ch. 153, § 1; 1981, ch. 404, § 3; 1982, ch. 877, §§ 2, 3; 1983, ch. 454, §§ 2, 3; 1983, ch. 469, §§ 6, 7; 1984, ch. 569, § 1; 1984, ch. 975, §§ 6, 7; 1984, ch. 1006, § 3; 1986, ch. 697, § 1; 1986, ch. 788, § 1; 1986, ch. 899, §§ 7, 8; 1987, ch. 96, § 1; 1987, ch. 444, §§ 1, 8, 9; 1988, ch. 944, § 1; 1989, ch. 427, § 1; 1989, ch. 591, §§ 63, 111, 112, 113; 1991, ch. 407, §§ 1, 2; 1991, ch. 473, §§ 2, 3; 1992, ch. 674, §§ 6, 7; 1994, ch. 550, § 1; 1995, ch. 93, § 1; 1995, ch. 214, § 2; 1995, ch. 396, § 6; 1998, ch. 795, §§ 2, 3; 1998, ch. 939, § 6; 2000, ch. 819, §§ 1, 2; 2001, ch. 74, § 4; 2001, ch. 161, § 1; 2001, ch. 310, § 1; 2002, ch. 832, § 2; 2006, ch. 900, § 3; 2007, ch. 203, § 2; 2010, ch. 1009, § 6; 2011, ch. 231, § 1; 2012, ch. 947, § 5; 2012, ch. 968, §§ 7, 8; 2013, ch. 386, § 2; 2014, ch. 915, § 3; 2014, ch. 1001, § 6; 2014, ch. 1015, § 10; 2015, ch. 369, § 1; 2017, ch. 147, §§ 3-6; 2017, ch. 371, § 2; 2018, ch. 755, § 2; 2021, ch. 187, § 2; 2021, ch. 451, §§ 2, 3.

**Compiler's Notes.**

For the Preamble to the act concerning the pandemic's impact on the food and beverage industry, please see Acts 2021, ch. 451.

Acts 2021, ch. 451, § 4 provided that the act is only effective in jurisdictions that have passed referenda authorizing the retail sale of liquor and the sale of liquor by the drink under Title 57.

Acts 2021, ch. 451, § 5 provided the provisions contained in the act terminate on July 1, 2023, and the law in effect prior to the act's effective date [May 14, 2021] must be restored.

**Amendments.**

The 2021 amendment by ch. 187 added the second sentence of (d)(4).

The 2021 amendment by ch. 451 added (e)(5); and in (f), substituted "lawful other than the sale of alcoholic beverages and beer in accordance with § 57-4-112." for "lawful."

**Effective Dates.**

Acts 2021, ch. 187, § 3. April 20, 2021.

Acts 2021, ch. 451, § 5. May 14, 2021.

# PART 3

# TAXES AND FEES

## 57-4-301. Privilege taxes — Tax on retail sales — Carrier license fees — Mixing bar tax.

(a) It is hereby declared the legislative intent that every person is exercising a taxable privilege who engages in the business of selling at retail in this state alcoholic beverages for consumption on the premises.

(b)(1) Each applicant for an on-premises consumption license shall pay to the commission a one-time, nonrefundable fee in the amount of three hundred dollars ($300) when the application is submitted for review. Further, once a license is approved, for the exercise of such privilege, the following taxes are levied to be earmarked for and allocated to the commission for the purpose of the administration and enforcement of the duties, powers, and functions of the commission, and are to be paid annually, as follows:

| | | Effective July 2003 | Effective July 2004 |
|---|---|---|---|
| (A) | Private club | $ 300 | $ 500 |
| (B) | Convention center | $ 500 | $1000 |
| (C) | Premier type tourist resort | $1500 | $2000 |
| (D) | Historic performing arts center | $ 300 | $ 150 |
| (E) | Urban park center | $ 500 | $ 150 |
| (F) | Commercial passenger boat company | $ 750 | $1250 |
| (G) | Historic mansion house site/Historic inn | $ 300 | $ 150 |
| (H) | Historic interpretive center | $ 300 | $ 150 |
| (I) | Community theater | $ 300 | $ 150 |
| (J) | Zoological institution | $ 300 | $ 150 |
| (K) | Museum | $ 300 | $ 150 |
| (L) | Establishment in a terminal building of a commercial air carrier airport | $1000 | $1500 |
| (M) | Commercial airline travel club | $ 500 | $1000 |
| (N) | Public aquarium | $ 300 | $ 150 |
| (O) | Motor speedway | $1000 | $2000 |
| (P) | Sports facility | $1000 | $2000 |
| (Q) | Theater | $ 300 | $ 150 |

Further, for the exercise of such privilege, the following taxes are hereby levied to be earmarked for and allocated to the commission for the purpose of administration and enforcement of the duties, powers, and functions of the commission, and are to be paid in accordance with the following schedule:

(R) Restaurant, according to seating capacity, on licensed premises:

| | |
|---|---|
| (i) 40 — 74 seats | $ 650 |
| (ii) 75 — 125 seats | $ 750 |
| (iii) 126 — 175 seats | $ 925 |
| (iv) 176 — 225 seats | $ 975 |
| (v) 226 — 275 seats | $1100 |
| (vi) 276 seats and more | $1200 |

Wine-only restaurant, according to seating capacity on licensed premises:

| | July 2003 | July 2004 | July 2005 | July 2006 |
|---|---|---|---|---|
| (vii) 40 — 125 seats | $ 120 | $ 170 | $ 220 | $ 270 |
| (viii) 126 — 175 seats | $ 150 | $ 200 | $ 250 | $ 300 |
| (ix) 176 — 225 seats | $ 160 | $ 210 | $ 260 | $ 310 |
| (x) 226 — 275 seats | $ 180 | $ 230 | $ 280 | $ 330 |
| (xi) 276 seats and more | $ 200 | $ 250 | $ 300 | $ 350 |

(S) Caterers:

| July 2003 | July 2004 | July 2005 | July 2006 |
|---|---|---|---|
| $ 500 | $ 550 | $ 575 | $ 625 |

(T) Hotels, according to room capacity, on licensed premises:

| | July 2003 | July 2004 | July 2005 | July 2006 |
|---|---|---|---|---|
| (i) 0 — 99 rooms | $1000 | $1000 | $1000 | $1000 |
| (ii) 100 — 399 rooms | $1000 | $1000 | $1200 | $1250 |
| (iii) 400 rooms and over | $1000 | $1200 | $1400 | $1500 |

| | | |
|---|---|---|
| (U) | Retirement center | $150 |
| (V) | Civic arts center | $150 |
| (W) | Limited service restaurant, based on the gross sales of prepared food: | |
| | (i) At least 30% of gross sales | $2,000 |
| | (ii) At least 20% but not more than 30% of gross sales | $3,000 |
| | (iii) At least 15% but not more than 20% of gross sales | $4,000 |
| | (iv) 0% but not more than 15% of gross sales | $5,000 |
| (X) | Food hall | $1,250 |

(2) Each county or municipality within which such privilege is exercised is authorized to levy and collect the privilege tax separately. However, such privilege tax collected by the county or municipality will remain at the 2003 level and any monetary increase of the privilege tax in fiscal years beginning July 1, 2004, and thereafter, as provided in this subsection (b) will be solely used for the purpose of the administration and enforcement of the duties, powers, and functions of the Tennessee alcoholic beverage commission; provided, however, that in any county where metropolitan government prevails, the urban service district shall constitute the municipality and the general service district shall constitute the county insofar as this chapter is concerned.

(3) Notwithstanding subdivision (b)(1)(E) to the contrary, "urban park centers" under § 57-4-102(40)(G)-(K) shall pay an annual privilege tax of four thousand dollars ($4,000) to be earmarked for and allocated to the commission for the purpose of administration and enforcement of the duties, powers, and functions of the commission.

(c)(1) In addition to the privilege taxes levied in subdivision (b)(1), there is further levied a tax equal to the rate of fifteen percent (15%) of the sales price of all alcoholic beverages sold for consumption on the premises, the tax to be computed on the gross sales of alcoholic beverages for consumption on the premises for the purpose of remitting the tax due the state, and to include each and every retail thereof.

(2) A person required by subdivision (c)(1) to collect and pay the tax on the sale of alcoholic beverages on the premises may include the tax in the menu price of the alcoholic beverage or may include the tax on the final bill to the customer. A person that does not include the tax in the menu price of the alcoholic beverage product must advise customers on its menu that a fifteen percent (15%) tax on the sale of alcoholic beverages will be added to the final bill.

(d) Commercial airlines, paddlewheel steamboat companies and passenger trains shall, in lieu of taxes levied under subsections (b) and (c), pay annually to the state, for state purposes, a license fee of twelve hundred fifty dollars ($1250). Commercial airlines, paddlewheel steamboat companies and passenger trains which have paid the annual license fee under this section may bring into and store in this state alcoholic beverages on which the Tennessee alcoholic beverage taxes levied under § 57-3-302, have not been paid, but must comply with subdivisions (d)(1) and (2):

(1) Commercial airlines, paddlewheel steamboat companies and passenger trains that bring into, or possess in this state alcoholic beverages on which taxes levied by this state have not been paid are liable for such taxes on the alcoholic beverages;

(2) The liability of commercial airlines, paddlewheel steamboat companies and passenger trains for taxes levied under § 57-3-302, is determined by multiplying the:

(A) Quantity of each type of alcoholic beverage purchased within the operating system of each commercial airline, paddlewheel steamboat company or passenger train by the ratio of its revenue passenger miles in Tennessee to the total revenue passenger miles within its system; and

(B) Respective results obtained under subdivision (d)(2)(A), by the applicable tax rate for each type under § 57-3-302, and the rules and regulations promulgated pursuant thereto;

(3) Monthly reports of the liability, determined under subdivision (d)(2), shall be submitted to the department of revenue on forms designated by the commissioner, on or before the last day of each month following the month during which any tax liability arises under this subsection (d). A commercial airline, paddlewheel steamboat company or passenger train that fails to file the report required, or to pay the tax payable under this section in a timely manner as defined by rules and regulations promulgated by the department, is liable for interest and penalties as provided by law; and

(4) This subsection (d) does not apply to commercial airline travel clubs.

(e) No tax authorized or imposed by this section shall be levied or assessed from any charitable, nonprofit, or political organization selling alcoholic beverages at retail pursuant to a special occasion license.

(f) A restaurant, hotel, or caterer licensed under this chapter may obtain a catering license upon the payment of an additional privilege tax in accordance with subdivision (b)(1)(S), for state purposes, to be paid annually.

(g) A special historic district authorized to serve wine under § 57-4-101 shall pay an annual privilege tax of one hundred dollars ($100) for the privilege of serving wine within such district.

**History.**

Acts 1967, ch. 211, § 3; 1972, ch. 682, § 5; 1972, ch. 756, § 6; 1979, ch. 284, § 1; 1979, ch. 401, § 5; T.C.A., § 57-157; Acts 1980, ch. 898, § 3; 1981, ch. 404, § 5; 1981, ch. 475, § 5; 1983, ch. 52, § 6; 1983, ch. 300, § 5; 1983, ch. 469, § 8; 1984, ch. 975, § 8; 1986, ch. 899, § 9; 1987, ch. 444, §§ 10, 11; 1991, ch. 219, § 2; 1992, ch. 674, § 8; 1998, ch. 795, § 4; 2001, ch. 64, § 3; 2001, ch. 74, § 5; 2001, ch. 84, § 3; 2004, ch. 544, § 3; 2004, ch. 876, §§ 7-10; 2005, ch. 253, § 3; 2009, ch. 168, § 1; 2010, ch. 647, § 3; 2010, ch. 1133, § 4; 2012, ch. 790, §§ 3, 4; 2013, ch. 371, § 2; 2014, ch. 915, § 1; 2017, ch. 338, § 4; 2021, ch. 330, § 3.

**Amendments.**

The 2021 amendment added (b)(1)(X).

**Effective Dates.**

Acts 2021, ch. 330, § 5. May 4, 2021.

**Attorney General Opinions.**

Licensed distilleries that sell their own alcoholic beverages for consumption on the premises, as authorized by T.C.A. § 57-3-202(i)(4), must remit the 15% tax imposed on the sales price of each alcoholic beverage sold under T.C.A. § 57-4-301(c)(1), because they are exercising the taxable privilege of "engag[ing] in the business of selling at retail in this state alcoholic beverages for consumption on the premises." These distilleries are not, however, required to remit the annual taxes imposed by § 57-4-301(b)(1), which are specific to facilities licensed under T.C.A. 57-4-101 et seq. OAG 18-12, 2018 Tenn. AG LEXIS 10 (3/16/2018).

## 57-4-306. Distribution of collections.

(a) All gross receipt taxes collected under § 57-4-301(c) shall be distributed by the commissioner of revenue as follows:

(1) Fifty percent (50%) to the general fund to be earmarked for education purposes; and

(2) The other fifty percent (50%) to be distributed to local political subdivisions as follows:

(A) Collections for privileges exercised in an incorporated municipality shall be distributed by the commissioner to the city recorder; and

(B) Collections for privileges exercised in an unincorporated area of the county shall be distributed by the commissioner to the county trustee.

(b) The proceeds received by a local political subdivision pursuant to subdivision (a)(2) must be distributed by the local political subdivision in the following manner:

(1) One-half (½) of the proceeds must be distributed as follows:

(A) If the county school system is the only LEA in the county, then to the county trustee for the county school system from the collection of taxes in the county or any city exercising the privilege authorized under § 57-4-301(c);

(B) If a city exercises the privilege authorized under § 57-4-301(c) and operates a kindergarten through grade twelve (K-12) school system, then to the city recorder, who shall retain the collections for the city school system;

(C) If a city exercises the privilege authorized under § 57-4-301(c) and operates a city school system that is not a kindergarten through grade twelve (K-12) school system, then to the city recorder:

(i) In the amount the percentage that the prior year's average daily attendance (ADA) of the students in the city school system is to the prior year's ADA of public school students residing in the city who attend either the city school system or the county school system with the remaining amount distributed to the county trustee for the county school system, if the city lies entirely in a single county; or

(ii) In the amount the percentage that the prior year's ADA of the students in the city school system is to the prior year's ADA of public school students residing in the city who attend either the city school system or a county school system with the remaining amount divided between the counties based on where the tax was collected and distributed to the county trustees for the county school systems, if the city lies within two (2) or more counties;

(D) Notwithstanding § 49-3-315, if a city exercises the privilege authorized under § 57-4-301(c), but does not operate a city school system, then to the county trustee for the county school system;

(E) If a special school district lies, in whole or in part, within a city that exercises the privilege authorized under § 57-4-301(c), then to the appropriate official acting for the special school district in the amount the percentage the ADA of public school students residing in the city and attending the special school district is to the total ADA of city public school students who attend either the special school district or the county school system with any remaining amount distributed to the county trustee for the county school system;

(F) Notwithstanding § 49-3-315, if a county exercises the privilege authorized under § 57-4-301(c) and one (1) or more city school systems operate within the county, then to the county trustee for the county school system any tax revenues collected outside the boundaries of cities exercising the privilege authorized under § 57-4-301(c) that have city school systems; or

(G) If a city that lies in two (2) or more counties exercises the privilege authorized under § 57-4-301(c) but does not operate a city school system, then tax revenues collected in the city must be divided between the counties based on where the tax was collected and distributed to the county trustees for the county school systems;

(2) The other one-half (½) of the proceeds must be distributed as follows:

(A) Collections of gross receipts collected in unincorporated areas, to the county general fund; and

(B) Collections of gross receipts in incorporated cities and towns, to the city or town wherein such tax is collected; and

(3) As used in subdivision (b)(1), "average daily attendance" or "ADA" means:

(A) If the school system was in operation during the prior school year, the aggregate days' attendance of the school system during the prior school year divided by the number of days school was in session during the prior school year; or

(B) If the school system was not in operation during the prior school year, then the estimated expected attendance of the school system for the current school year as reported to the department of education.

(c) [Deleted by 2020 amendment.]

(d) Notwithstanding subdivision (a)(2), the fifty percent (50%) of the gross receipt taxes allocated to local political subdivisions by subdivision (a)(2) and collected in a municipality which is a premier tourist resort shall be distributed to and expended by such municipality for schools in such municipality.

(e) By August 1, 2014, every city or county that exercises the privilege authorized under § 57-4-301(c) shall provide written notice to each school system operating within its jurisdiction. This notice shall contain a statement that the local political subdivision exercises the privilege authorized under § 57-4-301(c), a statement that students within the jurisdiction attend a school or schools operated by the school system, a statement that the school system is authorized to receive a portion of the revenues collected, and a reference to this part. A city or county that, subsequent to July 1, 2014, elects to exercise the privilege authorized under § 57-4-301(c), shall comply with the notice provisions of this subsection (e) within thirty (30) days of the effective date of the referendum.

(f) If the local political subdivision fails to remit the proceeds to the appropriate school fund, system, or systems as required under subsection (b) within sixty (60) days of receipt from the commissioner, then the aggrieved local school board shall notify the comptroller of the treasury who shall deliver by certified mail a written notice of such failure to the local political subdivision within five (5) business days of notice of the failure.

(g) In the event the local political subdivision fails to remit the proceeds within thirty (30) days of the receipt of such notice, the comptroller of the treasury shall direct the commissioner to withhold future distributions of proceeds to the local political subdivision authorized under subsection (b) until a final determination is made pursuant to subsection (h).

(h) Upon the commissioner withholding distributions of proceeds as authorized under subsection (g), an aggrieved local school board shall have the authority to pursue equitable relief against the local political subdivision in the chancery court; provided, however, that in the event that the state is a party or becomes a party to the suit, then such suit shall be filed or transferred to the chancery court of Davidson County. Upon receipt of a copy of the final judgment of the court, the commissioner shall distribute all withheld proceeds to the local political subdivision, which shall remit such proceeds to the aggrieved party pursuant to the judgment. If the amount of the judgment is not satisfied by the withheld proceeds, then the local political subdivision shall be solely responsible for remitting future proceeds to the aggrieved party pursuant to the judgment.

(i)(1) Subsections (a)-(h) shall not apply in counties having a population, according to the 2010 federal census or any subsequent federal census of:

| not less than | nor more than |
|---|---|
| 336,400 | 336,500 |
| 98,900 | 99,000 |

In such counties, all gross receipt taxes collected under § 57-4-301(c) shall be distributed by the commissioner of revenue as follows:

(A) Fifty percent (50%) to the general fund to be earmarked for education purposes; and

(B) The other fifty percent (50%) to be distributed to local political subdivisions as follows:

(i) Collections for privileges exercised in an incorporated municipality shall be distributed by the commissioner to the city recorder; and

(ii) Collections for privileges exercised in an unincorporated area of the county shall be distributed by the commissioner to the county trustee.

(2) The proceeds received in each local political subdivision pursuant to subdivision (i)(1)(B) shall be distributed by the local political subdivision in the following manner:

(A) One-half (½) of the proceeds shall be expended and distributed in the same manner as the county property tax for schools is expended and distributed; any proceeds expended and distributed to municipalities which do not operate their own school systems separate from the county are required to remit one-half (½) of their proceeds of the gross receipts liquor-by-the-drink tax to the county school fund; and

(B) The other one-half (½) of the proceeds shall be distributed as follows:

(i) Collections of gross receipts collected in unincorporated areas, to the county general fund; and

(ii) Collections of gross receipts in incorporated cities and towns, to the city or town wherein such tax is collected.

(j) **[Effective until July 1, 2023.]** (1) Notwithstanding this section to the contrary, fifty percent (50%) of the event revenue from gross receipt taxes collected under § 57-4-301(c) for privileges exercised in an event venue during an event period that would not otherwise be earmarked for educational purposes shall be deposited in the event tourism fund.

(2) One and one hundred twenty-five thousandths percent (1.125%) of funds deposited in the event tourism fund shall be retained by the department of finance and administration to be used for costs associated with administering the fund and this section. The department of finance and administration shall cause to be paid to the department of revenue an amount to offset the department's costs in administering this section.

(3) As used in this subsection (j):

(A) "Event period" has the same meaning as defined in § 67-6-105;

(B) "Event revenue" has the same meaning as defined in § 67-6-105; and

(C) "Event venue" has the same meaning as defined in § 67-6-105.

**History.**

Acts 1967, ch. 211, § 3; T.C.A., § 57-162; Acts 1982, ch. 942, §§ 1, 2; 1983, ch. 356, § 1; 2003, ch. 355, § 19; 2005, ch. 500, § 2; 2006, ch. 989, § 7; 2014, ch. 901, § 1; 2015, ch. 220, §§ 1, 2; 2016, ch. 885, §§ 1, 2; 2017, ch. 346, §§ 1, 2; 2018, ch. 687, §§ 1, 2; 2018, ch. 959, § 2; 2019, ch. 194, §§ 1, 2; 2020, ch. 696, §§ 1-4.

**Amendments.**

The 2019 amendment, substituted "2017-2018" for "2016-2017", "2018-2019" for "2017-

2018" and "2019-2020" for "2018-2019" throughout subsection (b); in (b)(1), substituted "July 1, 2018 until June 30, 2019" for "July 1, 2017 until June 30, 2018" and substituted "must" for "shall" in (b)(1), (b)(1)(A)(vii), (b)(1)(B), (b)(1)(B)(ii), and (b)(2)(A)(vii); in (b)(1)(A)(ii) substituted "then to the city recorder, who shall retain" for "then the city recorder shall retain"; in (b)(2)(A)(vi), inserted "Notwithstanding § 49-3-315, if a county exercises the privilege authorized under § 57-4-301(c)" at the beginning; substituted "After July 1, 2020" for "After July 1, 2019" at the beginning of (c).

The 2020 amendment rewrote (b), which read; "(b) From July 1, 2018, until June 30, 2019, the proceeds received by a local political subdivision pursuant to subdivision (a)(2) must be distributed by the local political subdivision in the following manner:

"(A) One-half (½) of the proceeds must be distributed as follows:

"(i) If the county school system is the only LEA in the county, then to the county trustee for the county school system from the collection of taxes in the county or any city exercising the privilege authorized under § 57-4-301(c);

"(ii) If a city exercises the privilege authorized under § 57-4-301(c) and operates a kindergarten through grade twelve (K-12) school system, then to the city recorder, who shall retain the collections for the city school system;

"(iii) If a city exercises the privilege authorized under § 57-4-301(c) and operates a city school system that is not a kindergarten through grade twelve (K-12) school system, then to the city recorder:

"(*a*) In the amount the percentage that the 2017-2018 average daily attendance (ADA) of the students in the city school system is to the 2017-2018 ADA of public school students residing in the city who attend either the city school system or the county school system with the remaining amount distributed to the county trustee for the county school system, if the city lies entirely in a single county; or

"(*b*) In the amount the percentage that the 2017-2018 ADA of the students in the city school system is to the 2017-2018 ADA of public-school students residing in the city who attend either the city school system or a county school system with the remaining amount divided between the counties based on where the tax was collected and distributed to the county trustees for the county school systems, if the city lies within two (2) or more counties;

"(iv) Notwithstanding § 49-3-315, if a city exercises the privilege authorized under § 57-4-301(c), but does not operate a city school system, then to the county trustee for the county school system;

"(v) If a special school district lies, in whole or in part, within a city that exercises the privilege authorized under § 57-4-301(c), then to the appropriate official acting for the special school district in the amount the percentage the ADA of public-school students residing in the city and attending the special school district is to the total ADA of city public-school students who attend either the special school district or the county school system with any remaining amount distributed to the county trustee for the county school system;

"(vi) Notwithstanding § 49-3-315, if a county exercises the privilege authorized under § 57-4-301(c) and one (1) or more city school systems operate within the county, then to the county trustee for the county school system any tax revenues collected outside the boundaries of cities exercising the privilege authorized under § 57-4-301(c) that have city school systems; or

"(vii) If a city that lies in two (2) or more counties exercises the privilege authorized under § 57-4-301(c) but does not operate a city school system, then tax revenues collected in the city must be divided between the counties based on where the tax was collected and distributed to the county trustees for the county school systems; and

"(B) The other one-half (½) of the proceeds must be distributed as follows:

"(i) Collections of gross receipts collected in unincorporated areas, to the county general fund; and

"(ii) Collections of gross receipts in incorporated cities and towns, to the city or town wherein such tax is collected.

"(2) From July 1, 2019, until June 30, 2020, the proceeds received by a local political subdivision pursuant to subdivision (a)(2) must be distributed by the local political subdivision in the following manner:

"(A) One-half (½) of the proceeds must be distributed as follows:

"(i) If the county school system is the only LEA in the county, then to the county trustee for the county school system from the collection of taxes in the county or any city exercising the privilege authorized under § 57-4-301(c);

"(ii) If a city exercises the privilege authorized under § 57-4-301(c) and operates a kindergarten through grade twelve (K-12) school system, then the city recorder shall retain the collections for the city school system;

"(iii) If a city exercises the privilege authorized under § 57-4-301(c) and operates a city school system that is not a kindergarten through grade twelve (K-12) school system, then to the city recorder:

"(*a*) In the amount the percentage that the 2018-2019 average daily attendance (ADA) of the students in the city school system is to the 2018-2019 ADA of public school students residing in the city who attend either the city school system or the county school system with the remaining amount distributed to the county trustee for the county school system, if the city lies entirely in a single county; or

"(*b*) In the amount the percentage that the 2018-2019 ADA of the students in the city school system is to the 2018-2019 ADA of public school students residing in the city who attend either the city school system or a county school system with the remaining amount divided between the counties based on where the tax was collected and distributed to the county trustees for the county school systems, if the city lies within two (2) or more counties;

"(iv) Notwithstanding § 49-3-315, if a city exercises the privilege authorized under § 57-4-301(c), but does not operate a city school system, then to the county trustee for the county school system;

"(v) If a special school district lies, in whole or in part, within a city that exercises the privilege authorized under § 57-4-301(c), then to the appropriate official acting for the special school district in the amount the percentage the ADA of public school students residing in the city and attending the special school district is to the total ADA of city public school students who attend either the special school district or the county school system with any remaining amount distributed to the county trustee for the county school system;

"(vi) Notwithstanding § 49-3-315, if a county exercises the privilege authorized under § 57-4-301(c) and one (1) or more city school systems operate within the county, then to the county trustee for the county school system any tax revenues collected outside the boundaries of cities exercising the privilege authorized under § 57-4-301(c) that have city school systems; or

"(vii) If a city that lies in two (2) or more counties exercises the privilege authorized under § 57-4-301(c) but does not operate a city school system, then tax revenues collected in the city must be divided between the counties based on where the tax was collected and distributed to the county trustees for the county school systems; and

"(B) The other one-half (½) of the proceeds shall be distributed as follows:

"(i) Collections of gross receipts collected in unincorporated areas, to the county general fund; and

"(ii) Collections of gross receipts in incorporated cities and towns, to the city or town wherein such tax is collected.

"(3)(A) As used in subdivision (b)(1), "average daily attendance" or "ADA" means:

"(i) If the school system was in operation during the 2017-2018 school year, the aggregate days' attendance of the school system during the 2017-2018 school year divided by the number of days school was in session during the 2017-2018 school year; or

"(ii) If the school system was not in operation during the 2017-2018 school year, then the estimated expected attendance of the school system for the 2018-2019 school year as reported to the department of education.

"(B) As used in subdivision (b)(2), "average daily attendance" or "ADA" means:

"(i) If the school system was in operation during the 2018-2019 school year, the aggregate days' attendance of the school system during the 2018-2019 school year divided by the number of days school was in session during the 2018-2019 school year; or

"(ii) If the school system was not in operation during the 2018-2019 school year, then the estimated expected attendance of the school system for the 2019-2020 school year as reported to the department of education."; deleted (c), which read; "(c) After July 1, 2020, the proceeds received in each local political subdivision pursuant to subdivision (a)(2) shall be distributed by the local political subdivision in the following manner:

"(1) One-half (½) of the proceeds shall be expended and distributed in the same manner as the county property tax for schools is expended and distributed; any proceeds expended and distributed to municipalities which do not operate their own school systems separate from the county are required to remit one-half (½) of their proceeds of the gross receipts liquor-by-the-drink tax to the county school fund; and

"(2) The other one-half (½) of the proceeds shall be distributed as follows:

"(A) Collections of gross receipts collected in unincorporated areas, to the county general fund; and

"(B) Collections of gross receipts in incorporated cities and towns, to the city or town wherein such tax is collected." and in (f) and (g) substituted "subsection (b)" for "subsections (b) or (c) as applicable".

**Effective Dates.**

Acts 2019, ch. 194, § 3. July 1, 2019.

Acts 2020, ch. 696, § 5, July 1, 2020.

## NOTES TO DECISIONS

Analysis

1. Construction.
2. Allocation of Funds.

**1. Construction.**

Pre-2014 local education provision required a municipality with its own school system to expend and distribute half of its liquor by the

drink tax proceeds in the same manner that the county property tax for schools was expended and distributed within the municipality, which was for the benefit of the municipality's own school system. Coffee Cty. Bd. of Educ. v. City of Tullahoma, 574 S.W.3d 832, 2019 Tenn. LEXIS 174 (Tenn. May 8, 2019).

**2. Allocation of Funds.**

Because the city has its own school system, the court held that it was permitted to use half of its liquor by the drink tax proceeds for its own school system, and it was not required to share those proceeds with the county or the county schools, and therefore the appellate court erred by reversing the trial court's grant of summary judgment for the city. Coffee Cty. Bd. of Educ. v. City of Tullahoma, 574 S.W.3d 832, 2019 Tenn. LEXIS 174 (Tenn. May 8, 2019).

In an action filed by a county against cities based on the cities' failure to share the proceeds of liquor by the drink (LBD) tax proceeds with the county, the court held that the liquor-by-the-drink tax distribution statute did not require the cities to share half of their LBD tax proceeds with the county and other school systems in the county pro rata, but rather, the local education provision directed the cities to expend and distribute the education portion of their LBD tax proceeds in support of their own municipal school systems. Sullivan Cty. v. City of Bristol, 575 S.W.3d 316, 2019 Tenn. LEXIS 175 (Tenn. May 8, 2019).

Liquor-by-the-drink tax distribution statute did not require the city to share half of its liquor by the drink (LBD) tax proceeds with the county and other school systems in the county pro rata, but rather, the local education provision directed the city to expend and distribute the education portion of its LBD tax proceeds in support of its own municipal school system, and therefore the appellate court properly reversed the trial court's entry of summary judgment in favor of the county. Wash. Cty. Sch. Sys. v. City of Johnson City, 575 S.W.3d 324, 2019 Tenn. LEXIS 176 (Tenn. May 8, 2019).

Liquor-by-the-drink tax distribution statute did not require the city to share half of its liquor by the drink (LBD) tax proceeds with the county and other school systems in the county pro rata, but rather, the local education provision directed the city to expend and distribute the education portion of its LBD tax proceeds in support of its own municipal school system. The court's conclusion applied to all LBD tax proceeds paid to the city, those generated from pre-2002 referendum LBD tax proceeds from private club sales as well as those generated post-referendum. Bradley Cty. Sch. Sys. v. City of Cleveland, 575 S.W.3d 515, 2019 Tenn. LEXIS 177 (Tenn. May 8, 2019).

Liquor-by-the-drink tax distribution statute did not require the Commissioner of the Tennessee Department of Revenue to pay half of the cities' liquor by the drink (LBD) tax proceeds directly to the county trustee and that the cities were not required to distribute half of their LBD tax proceeds pro rata among the county school system and the other school systems in the county, but rather, the local education provision directed the cities to expend and distribute the education portion of their LBD tax proceeds in support of their own municipal school systems. Blount Cty. Bd. of Educ. v. City of Maryville, 574 S.W.3d 849, 2019 Tenn. LEXIS 178 (Tenn. May 8, 2019).

County's argument that if the cities were not required to share their liquor by the drink (LBD) tax proceeds under this section then the county was not required to share its LBD tax proceeds from sales at private clubs with the cities was rejected because the disparity was understandable, because the citizens of the cities were necessarily also citizens of the county, but the citizens of the county that lived outside the cities were not citizens of the cities. Blount Cty. Bd. of Educ. v. City of Maryville, 574 S.W.3d 849, 2019 Tenn. LEXIS 178 (Tenn. May 8, 2019).

# CHAPTER 5

# BEER

Part 1. General Provisions

Section
57-5-101. Traffic in alcoholic beverages of less than eight percent (8%) permitted — Brewers' and wholesalers' interests restricted.
57-5-103. Permit from county or city required — Online sale for curbside pickup — Classification of counties — Purchases of beer "for resale."

Part 2. Taxation

57-5-201. Barrel tax — Retailers to deal exclusively with Tennessee wholesalers and manufacturers. [Certain provisions subject to contingent repeal. See (a)(2).]

Part 6. Tennessee Responsible Vendor Act of 2006

Section
57-5-606. Qualification for responsible vendor status.

# PART 1

# GENERAL PROVISIONS

## 57-5-101. Traffic in alcoholic beverages of less than eight percent (8%) permitted — Brewers' and wholesalers' interests restricted.

(a)(1) It is lawful in this state to transport, store, sell, distribute, possess, receive, or manufacture beer, as defined in subsection (b), subject to the privilege taxes and regulations set out and provided for in this part.

(2) Except as otherwise provided for in this part, no brewer or manufacturer of beer shall have any financial or ownership interest, direct or indirect, in the business of or a building containing a wholesale or retail licensee, including to furnish or loan any fixtures of any kind to a retail licensee, and no such brewer or manufacturer shall hold a wholesale or retail license. For purposes of this section, an indirect interest includes any interest acquired by affiliates, subsidiaries, corporate officials, partners, or employees of the brewer or manufacturer.

(3) Except as otherwise provided for in this part, no wholesaler shall hold any financial or ownership interest, direct or indirect, in the business of or a building containing a brewer, manufacturer, or retail licensee, including to furnish or loan any fixtures of any kind to a retail licensee, and no such wholesaler shall hold a manufacturer or retail license.

(b) For purposes of this title, "beer" means beer, ale or other malt beverages, or any other beverages having an alcoholic content of not more than eight percent (8%) by weight, except wine as defined in § 57-3-101; provided, however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol.

(c)(1) Upon meeting necessary federal, state and local license requirements, notwithstanding the prohibition of subsection (a), a manufacturer:

(A) May operate as a retailer at the manufacturer's location or a site contiguous thereto for sales of not more than twenty-five thousand (25,000) barrels of beer or high alcohol content beer or both annually for consumption on or off the premises under this chapter as long as the requirements of this chapter concerning the licensing of such retail establishments are met; and

(B) May qualify for and hold a license:

(i) Under chapter 4 of this title as a "restaurant" or "limited service restaurant"; provided, that notwithstanding chapter 4 of this title related to restrictions or prohibitions on licensees under chapter 4, a restaurant or limited service restaurant may sell for off-premises consumption beer manufactured pursuant to this section at such location or at any other restaurant or limited service restaurant licensed

under chapter 4 that is owned by the same person; or

(ii) As a hotel as defined under § 57-4-102(22)(F)(iii); provided, that the hotel licensee shall only sell beer manufactured pursuant to this section on the premises of the hotel.

(2) **[Effective until October 1, 2021.]** A manufacturer operating as a retailer pursuant to subdivision (c)(1)(A) may not sell its beer directly to retailers that are located in a county other than the county in which the manufacturer is located. Notwithstanding any law to the contrary, any transfer or sale by a manufacturer operating as a retailer to an off-site retailer's location shall constitute a wholesale sale.

(d) Notwithstanding the prohibitions and restrictions on a manufacturer's financial and ownership interests imposed in subsection (a), a manufacturer may have a financial or ownership interest in a licensed wholesaler's business; provided, however, that the financial or ownership interest in the licensed wholesaler's business is maintained or held only for a one-time period not to exceed five (5) years, which may not be directly or indirectly extended or renewed, and only under the following circumstances and conditions:

(1) When a licensed wholesaler is voluntarily selling its distribution rights, and the manufacturer whose brand distribution rights are being sold seeks to assist the sale by taking a noncontrolling financial interest in the purchasing wholesaler in the form of a loan made contemporaneous with the sale and secured by the inventory and assets, except for the corporate stock, of the purchasing wholesaler; or

(2) When, only for reasons permitted under § 57-5-505, § 57-5-506, or § 57-5-507, a distribution agreement between a manufacturer and a wholesaler is not renewed or is otherwise terminated, cancelled, or discontinued, in which event a manufacturer is authorized to appoint a temporary licensed wholesaler to service the manufacturer's brands in the designated sales territory and to take a financial or ownership interest in the temporary licensed wholesaler in connection with the appointment.

(e)(1) Notwithstanding this section to the contrary, a wholesaler that has continuously held a valid wholesale distribution permit, issued pursuant to this section for a period of at least six (6) months prior to March 27, 2015, and has held a direct or indirect interest in a brewer or manufacturer, continuously during that period of time, and holds a trademark or marketing rights to a brand or brands of beer, may continue to hold the interest, and may expand the interest to effect the brewing, bottling, and sales of beer in which the wholesaler holds the trademark or marketing rights.

(2) It is the intent of the general assembly that this subsection (e) be prospective only and not be applicable to compel the divestiture of trademark or marketing rights or a direct or indirect interest held by a wholesaler for the six-month period prior to March 27, 2015.

(f) For purposes of this section, "manufacturer" means:

(1) A holder of a license to manufacture or import beer;

(2) An officer, director, agent, or employee of such a license holder; or

(3) An affiliate of such a license holder, regardless of whether the affiliation is corporate or by management, direction, or control.

(g) **[Effective on October 1, 2021.]** (1) Notwithstanding subdivision (a)(2), a manufacturer brewing not more than twenty-five thousand (25,000)

barrels of beer or high alcohol content beer, or both, annually and operating as a retailer pursuant to subsection (c) may self-distribute the beer that it manufactures directly to retailers:

(A) In the county in which the manufacturer is located; and

(B) Outside the county in which the manufacturer is located, if the manufacturer:

(i) Self-distributes not more than one thousand eight hundred (1,800) barrels of such manufacturer's beer annually; and

(ii) Is not prohibited from self-distribution in the particular county by the manufacturer's contract with a beer wholesaler.

(2)(A) A manufacturer self-distributing outside the county in which the manufacturer is located pursuant to subdivision (g)(1)(B) shall not self-distribute more than one thousand eight hundred (1,800) barrels of its beer annually in this state regardless of the number of manufacturing locations.

(B) If a manufacturer self-distributes more than one thousand eight hundred (1,800) barrels in a year, including in one (1) or more counties outside the county in which the manufacturer is located, the manufacturer shall enter into a contract with a wholesaler to distribute the manufacturer's beer within ninety (90) days of exceeding such limitation.

(3) A manufacturer shall certify its total volume of annual self-distribution as a part of the reporting required by § 57-6-105.

(4) A manufacturer self-distributing beer pursuant to subdivision (g)(1) shall collect and pay all taxes imposed by §§ 57-5-201 and 57-6-103. Any distribution, sale, or transfer of beer by a manufacturer directly to a beer retailer constitutes a wholesale sale for purposes of taxation.

(5) To determine the exact amount of tax owed on sales of beer and to facilitate the collection thereof, a manufacturer self-distributing beer pursuant to subdivision (g)(1) shall register separately with the commissioner of revenue as a wholesaler pursuant to § 57-5-102 and shall comply with the requirements for licensing as a wholesaler, including, without limitation, the permitting, reporting, and bonding requirements imposed by §§ 57-5-103, 57-6-104, 57-6-105, 57-6-107, and 67-6-410. In addition to the information required by § 67-6-410(b), such manufacturers shall report quantities of beer sold for consumption on the manufacturer's premises.

**History.**

Acts 1933, ch. 69, § 1; 1935, ch. 170, § 2; C. Supp. 1950, § 1191.1; T.C.A. (orig. ed.), § 57-201; Acts 1983, ch. 229, § 7; 1990, ch. 906, § 1; 1991, ch. 214, §§ 1, 2; 1992, ch. 800, §§ 1, 2; 1993, ch. 227, § 1; 1993, ch. 297, § 1; 1995, ch. 395, §§ 1-6; 2004, ch. 956, §§ 1, 2; 2005, ch. 298, §§ 2, 3; 2009, ch. 290, §§ 1, 2; 2013, ch. 386, §§ 1, 3; 2014, ch. 861, §§ 2, 17. 2015, ch. 19, §§ 1, 2; 2015, ch. 176, § 1; 2021, ch. 432, §§ 1, 2.

**Amendments.**

The 2021 amendment deleted (c)(2) which read: "(2) A manufacturer operating as a retailer pursuant to subdivision (c)(1)(A) may not sell its beer directly to retailers that are located in a county other than the county in which the manufacturer is located. Notwithstanding any law to the contrary, any transfer or sale by a manufacturer operating as a retailer to an off-site retailer's location shall constitute a wholesale sale."; and added (g).

**Effective Dates.**

Acts 2021, ch. 432, § 4. October 1, 2021.

**Attorney General Opinions.**

The legality of an exclusive sponsorship agreement whereby an alcoholic beverage manufacturer or other industry member would pay to sponsor an event in exchange for an agreement that the sponsor's product will be served exclusively at the event would depend

on the specific facts of the agreement and the status of the parties to the agreement, including whether the parties are licensed wholesalers or retailers and whether the agreement involves alcoholic beverages or beer. OAG 18-35, 2018 Tenn. AG LEXIS 34 (7/30/2018).

## 57-5-103. Permit from county or city required — Online sale for curbside pickup — Classification of counties — Purchases of beer "for resale."

(a)(1) It is unlawful to operate any business engaged in the sale, distribution, manufacture, or storage of beer without a permit issued by the county or city where such business is located under the authority herein delegated to counties and cities.

(2) Permits shall be issued to the owner of the business or other entity responsible for the premises for which the permit is sought, whether a person, firm, corporation, joint-stock company, syndicate, association, or local governmental entity where the governing body has authorized such sales of beer.

(3) A permit shall be valid:

(A) Only for the owner to whom the permit is issued and cannot be transferred to another owner. If the owner is a corporation, a change in ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner;

(B) Only for a single location, except as provided in subdivision (a)(4), and cannot be transferred to another location. A permit shall be valid for all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business; and

(C) Only for a business operating under the name identified in the permit application.

(4) Where an owner operates two (2) or more restaurants or other businesses within the same building, the owner may in the owner's discretion operate some or all such businesses pursuant to the same permit.

(5) A business can sell beer for both on-premises and off-premises consumption at the same location pursuant to one (1) permit.

(6) A permit holder must return a permit to the county or city that issued it within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business's name; provided, that notwithstanding the failure to return a beer permit, a permit shall expire on termination of the business, change in ownership, relocation of the business or change of the business's name.

(7) In the case of beer wholesalers, as defined in § 57-6-102, no county or city shall require a permit from a wholesaler unless such wholesaler operates a warehouse in such county or city.

(8) Any person, firm, corporation, joint-stock company, syndicate, or association engaged in the sale, distribution, or manufacture of beer without the permit required by this part commits a Class A misdemeanor.

(9) Nothing in this chapter shall be construed as granting counties or cities the authority to require the periodic renewal of beer permits.

(10) After July 1, 2015, a city or county shall not issue a permit under this chapter unless the applicant has been a citizen or lawful resident of the United States for not less than one (1) year immediately preceding the date upon which the application is made to the city or county.

(11) A permit holder may sell beer online for curbside pickup at the permit holder's location. Purchased beer must be delivered to the customer's vehicle, and the vehicle must be located within a paved parking area adjacent to the place of business. Beer sold through an online curbside pickup service must be pulled from the inventory located at the permitted location of the retailer providing the service and may not be pulled from the inventory of another retailer or permitted location. Any employee bringing beer to a vehicle for online curbside pickup must confirm the individual receiving the beer is at least twenty-one (21) years of age.

(b) For the purpose of licensing, regulating and controlling the transportation, storage, sale, distribution, possession, receipt and/or manufacture of beer pursuant to this chapter, the counties of the state shall be classified in two (2) categories, one (1) of which is hereby designated Class A counties consisting of those counties not governed by metropolitan governments as defined in § 7-2-101, and the other category is hereby designated Class B counties consisting of those counties governed by metropolitan governments as defined in § 7-2-101.

(c) When either "county" or "counties" is used in this chapter, it means counties generally without reference to the classification of counties provided for in this section, and the use of "county" or "counties" shall cause the provision limited by the word "county" or "counties" to apply equally to Class A counties and to Class B counties. When "county legislative body" or "county legislative bodies" is used in this chapter, it means "metropolitan council" or "metropolitan councils" when applicable to Class B counties.

(d)(1) It is unlawful for any person to sell, distribute or manufacture beer without having a valid certificate indicating that purchases of beer by that person are "for resale" as that term is used in § 67-6-102(83)(A).

(2) Within ten (10) days after being issued a permit to sell, distribute or manufacture beer, a person shall file with the county or city issuing the permit and with each person from whom the person buys beer a copy of a valid certificate indicating that the purchases of beer are "for resale" as that term is used in § 67-6-102(83)(A), and shall subsequently maintain at all times a valid resale certificate on file with the county or city issuing the permit and with each person from whom the person buys beer.

(e) A city or county is authorized to seek criminal history background or fingerprint checks on applicants. Criminal background checks may include fingerprint checks against state and federal criminal records maintained by the Tennessee bureau of investigation and the federal bureau of investigation. The Tennessee bureau of investigation is authorized to assess fees for the searches in accordance with the fee schedule established by the bureaus.

(f) Notwithstanding any law to the contrary, no city or county shall deny the issuance or renewal of a permit upon the basis that the lease between the business and its municipal landlord includes a provision whereby gross sales, which may include or exclude liquor sales, are considered in the determination of a percentage rent or other rent calculation provision.

**History.**

Acts 1933, ch. 69, § 9c; C. Supp. 1950, § 1191.12; Acts 1963, ch. 76, § 1; 1965, ch. 321, § 1; 1974, ch. 478, § 2; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A. (orig. ed.), § 57-204; Acts 1983, ch. 386, § 1; 1987, ch. 254, § 1; 1991, ch. 424, § 1; 1993, ch. 297, § 4; T.C.A., § 57-5-104; Acts 1996, ch. 641, § 2; 2009, ch. 314, § 1; 2010, ch. 1002, § 1; 2014, ch. 754, § 1; 2015, ch. 29, § 1; 2018, ch. 944, § 3; 2019, ch. 377, § 3; 2020, ch. 704, § 1.

**Amendments.**

The 2019 amendment added (f).

The 2020 amendment added (a)(11).

**Effective Dates.**

Acts 2019, ch. 377, § 4. May 10, 2019.

Acts 2020, ch. 704, § 2, June 22, 2020.

# PART 2

# TAXATION

## 57-5-201. Barrel tax — Retailers to deal exclusively with Tennessee wholesalers and manufacturers. [Certain provisions subject to contingent repeal. See (a)(2).]

(a)(1) Every person, firm, corporation, joint-stock company, syndicate or association in this state storing, selling, distributing, or manufacturing such beer or other beverages as are described in this chapter shall pay a special privilege tax, in addition to all other taxes, in an amount equal to four dollars and twenty-nine cents ($4.29) per barrel of thirty-one liquid gallons (31 gals.) stored, sold, distributed by gift or sale or manufactured in this state; provided, that the rate shall be reduced by fifty cents (50¢) on July 1 of any year following the enactment of any state or federal law that imposes mandatory deposits by consumers on beverage containers sold in this state or on July 1, 2028, whichever occurs first. The tax upon barrels containing more or less than thirty-one gallons (31 gals.) shall be at a proportionate rate. Beer or other such beverage manufactured in Tennessee and thereafter exported for sale, distribution or gift, or dispensed gratuitously and consumed on the premises, shall not be included in the measure of the tax liability hereby provided for. The commissioner of revenue is authorized to promulgate rules and regulations for the purpose of securing the exemption hereby given and for the purpose of preventing such exemption from being claimed in the case of beer sold, distributed or given away in Tennessee. The burden shall be on the manufacturer claiming exemption to establish to the satisfaction of the collection officers that the beverage manufactured in Tennessee is exempt under this subsection (a).

(2) Notwithstanding any provision of this section or law to the contrary, any revenue generated from the increase in tax rates from three dollars and forty cents ($3.40) to three dollars and ninety cents ($3.90) shall be allocated to the highway fund for the purpose of funding programs for the prevention and collection of litter and trash and matters related thereto. No later than March 31 of each year, the department of transportation shall transmit to the governor, and the speakers of the house of representatives and senate a report listing the programs receiving funds generated by this subsection (a), the amount of funds received by each program, and the purpose for which the funds were spent. This subdivision (a)(2) shall be repealed on July 1 of any year following the enactment of any state or federal law that imposes

mandatory deposits by consumers on beverage containers sold in this state or on July 1, 2028, whichever occurs first.

(b) The tax levied in subsection (a) shall be a state tax and no county, municipality or taxing district shall have power to levy any like tax. This tax shall not apply to beverages previously used as a measure of tax under the provisions hereof.

(c) No retail dealer of beer, as defined in § 57-5-101(b), shall purchase beer from anyone other than a licensed wholesaler located in this state, and all such purchases shall be delivered by the wholesaler to the retailer's licensed premises only or directly to the retailer at the wholesaler's licensed premises. No wholesale distributor of beer shall purchase beer from anyone other than a licensed manufacturer, importer, or other wholesaler holding a permit issued pursuant to § 57-5-101, and all such purchases shall be delivered only at a warehouse facility owned or operated by the wholesaler and located within this state. Anyone importing or causing to be imported any beer, as defined in § 57-5-101(b), shall be liable as other wholesale distributors or dealers hereunder.

(d) **[Effective until October 1, 2021. See version effective on October 1, 2021.]** Anything to the contrary notwithstanding, a retail dealer of beer as defined in § 57-5-101(b) may purchase such beverages directly from a manufacturer located in Tennessee, licensed hereunder, if the sale of such beverages by the manufacturer directly to retailers is authorized by law pursuant to § 57-5-101.

(d) **[Effective on October 1, 2021. See version effective until October 1, 2021.]** Anything to the contrary notwithstanding, a retail dealer of beer as defined in § 57-5-101(b) may purchase such beverages directly from a manufacturer located in Tennessee, licensed hereunder, if the sale of such beverages by the manufacturer directly to retailers is authorized by law pursuant to § 57-5-101. Any such self-distribution or sale by a manufacturer of its beer directly to a retail dealer of beer constitutes a wholesale sale for purposes of taxation.

**History.**

Acts 1933, ch. 69, § 2; 1937, ch. 88, § 1; 1945, ch. 69, § 1; 1947, ch. 109, § 1; C. Supp. 1950, § 1191.2; impl. am. Acts 1959, ch. 9, § 14; Acts 1969, ch. 212, § 1; 1973, ch. 6, § 1; T.C.A. (orig. ed.), § 57-213; Acts 1981, ch. 307, §§ 1, 4; 1984, ch. 769, § 2; 1987, ch. 33, § 1; 1991, ch. 30, § 1; 1994, ch. 864, §§ 1, 2; 1995, ch. 2, § 1; 1999, ch. 81, §§ 1, 2; 2002, ch. 856, § 1b; 2005, ch. 86, § 1; 2010, ch. 616, § 1; 2014, ch. 861, §§ 9, 10; 2015, ch. 19, § 3; 2016, ch. 704, §§ 1, 2; 2021, ch. 158, §§ 1, 2; 2021, ch. 432, § 3.

**Compiler's Notes.**

Acts 2021, ch. 158, § 5 provides that it is the legislative intent that the temporary taxes contained in §§ 57-5-201 and 67-4-402, and first imposed by Chapter 307 of the Public Acts of 1981, are reenacted and extended in accordance with the provisions of this act.

Acts 2021, ch. 158, § 6 provides that the act applies to all tax returns filed on or after June 1, 2021.

**Amendments.**

The 2021 amendment by ch. 158 substituted "July 1, 2028" for "July 1, 2022" in (a)(1) and (a)(2).

The 2021 amendment by ch. 432 added the second sentence in (d).

**Effective Dates.**

Acts 2021, ch. 158, § 6. June 1, 2021.

Acts 2021, ch. 432, § 4. October 1, 2021.

# PART 6

# TENNESSEE RESPONSIBLE VENDOR ACT OF 2006

## 57-5-606. Qualification for responsible vendor status.

In order to qualify for responsible vendor status, the vendor shall comply with the following requirements:

(1)(A) Require each and every clerk to successfully complete a responsible vendor training program within sixty-one (61) days of commencing employment, whether the employment is for the first time, after rehiring, or for a different responsible vendor. Responsible vendors shall, prior to employing a clerk, verify with the commission that the clerk is eligible for certification;

(B) Each clerk shall successfully complete the responsible vendor training program and after doing so, receive a certificate of completion from the program trainer in a format that is in accordance with rules promulgated by the commission. The training program shall be a minimum of one (1) hour of instruction. A clerk shall not be authorized to sell beer for off-premise consumption, unless the clerk has successfully completed the responsible vendor training program and has received a certificate of completion or is within sixty-one (61) days of the date of hire. The original certificate of completion shall be maintained by the responsible vendor employing the clerk. The responsible vendor shall provide the commission with the names and other identifying information as required by the commission, of certified clerks within twenty-one (21) days of the date of training; and

(C) Each clerk shall be issued a name badge by the responsible vendor employer. The name badge must have the clerk's first name clearly visible. Clerks shall wear this name badge at all times during which they are on duty;

(2) Provide instruction for its employees approved by the commission, which shall include the following:

(A) Laws regarding the sale of beer for off-premise consumption;

(B) Methods of recognizing and dealing with underage customers; and

(C) Procedures for refusing to sell beer to underage customers and for dealing with intoxicated customers;

(3) Require all certified clerks to attend at least one (1) annual meeting, at which the responsible vendor shall disseminate updated information prescribed by the commission and the responsible vendor policies and procedures related thereto. In order for the clerk's certification to remain valid, the clerk must attend an annual meeting each year following the clerk's original certification; and the responsible vendor must keep records thereof. Responsible vendors shall notify the commission if a certified clerk does not attend an annual meeting as required by this section. The commission may, at any time, require responsible vendors to disseminate to certified clerks information from the commission that is related to changes in state law or commission rules; and

(4) Maintain employment and all responsible vendor training records of all clerks.

**History.**

Acts 2006, ch. 864, § 7; 2008, ch. 877, § 2; 2019, ch. 136, § 3.

**Amendments.**

The 2019 amendment added the second sentence in (1)(B).

**Effective Dates.**

Acts 2019, ch. 136, § 6. August 1, 2019.

# TITLE 58

# MILITARY AFFAIRS, EMERGENCIES AND CIVIL DEFENSE

Chapter
1. Military Forces.
   Part 2. National Guard
2. Disasters, Emergencies and Civil Defense.
   Part 1. General Emergency Provisions
   Part 2. Facilitating Business Rapid Response to State-Declared Disaster Act
   Part 3. Business Fairness Act
3. Veterans' Rights in General.
7. State Veterans' Homes.

## CHAPTER 1

## MILITARY FORCES

Part 2. National Guard

Section
58-1-227. Relief from civil or criminal liability.

## PART 2

## NATIONAL GUARD

### 58-1-227. Relief from civil or criminal liability.

(a) Members of the national guard ordered into the active service of the state, pursuant to § 58-1-106, shall receive the same immunity afforded by law to state employees for acts done in the performance of their duty while at their post of duty. When an action or proceeding of any nature shall be commenced in any court by any person against any member of the national guard for any act done by the guard member in guard member's official capacity in the discharge of guard member's assigned duty under parts 1, 2 and 4-6 of this chapter, or an alleged omission by guard member to do an act which it was the guard member's duty to perform or against any person acting under lawful authority or orders or by virtue of any warrant issued by guard member pursuant to law, the governor shall designate counsel to represent and defend such guard member. All compensation of such counsel and all costs and expenses in connection with the action shall be payable from the funds appropriated to the military department.

(b) Officers and enlisted personnel of the national guard who engage in voluntary aid and assistance shall receive the same immunity afforded by law to state employees for actions taken in the performance of their duty while at their post of duty. When an action is commenced in any court by any person against any officer or enlisted personnel of the national guard for actions in the course of voluntary aid and assistance, counsel shall be designated as provided

by title 8, chapter 42 to represent and defend such guard member. All compensation of such counsel and all costs and expenses in connection with the action shall be payable from the funds appropriated to the military department.

(c)(1) Notwithstanding § 39-11-605 or § 39-11-622(a)(2), if a member of the national guard uses force against another, including by discharging a personally owned firearm, and a civil cause of action is commenced against the national guard member alleging that the use of force resulted in the death or injury of, or property damage to, the person commencing the action, the national guard member shall have civil immunity with respect to any person commencing an action that is based on the national guard member's use of force, if the court in which the action is filed determines the national guard member:

(A) Used force against the person bringing the action that was justifiable self-defense, in accordance with § 39-11-611, or justifiable defense of others, in accordance with § 39-11-612;

(B) Was on duty or in uniform at the time force was used; and

(C) If the use of force involved the discharge of a personally owned handgun, was authorized to possess or carry a handgun pursuant to § 39-17-1351 and authorized by the military department to carry a personally owned handgun while on-duty or in uniform.

(2)(A) As soon as possible after the national guard member's use of force, the attorney general and reporter shall investigate and determine whether the national guard member's use of force complied with the requirements of subdivisions (c)(1)(A)-(C). If the attorney general determines that the use of force was justifiable, the national guard member shall receive legal counsel designated as provided by title 8, chapter 42, to represent the national guard member if any action is commenced by any person against the national guard member that is based upon the national guard member's justified use of force.

(B) If the attorney general and reporter determines the national guard member's use of force was not justified and declines to provide legal counsel, the provision of § 39-11-622(b) shall be applicable and available to the national guard member.

(3) If any civil or administrative action is brought against the national guard member that is based on the national guard member's use of force, the trier of fact shall first determine if the use of force complied with the requirements of subdivisions (c)(1)(A)-(C). If the trier of fact finds the national guard member's use of force did comply, the action against the national guard member shall be dismissed.

**History.**

Acts 1970, ch. 596, § 90; 1978, ch. 830, § 4; T.C.A., § 7-143; Acts 2016, ch. 778, § 1.

**Compiler's Notes.**

This section is set out in the supplement to update the reference in (c) from "39-11-622(a)(1)(B)" to "39-11-622(a)(2)."

# CHAPTER 2

# DISASTERS, EMERGENCIES AND CIVIL DEFENSE

Part 1. General Emergency Provisions

Section
58-2-111. Possession of mobile telephone by person being housed in camp or shelter.

Part 2. Facilitating Business Rapid Response to State-Declared Disaster Act

58-2-201. Short title.
58-2-202. Part definitions.
58-2-203. Payment of taxes and fees by responding out-of-state businesses and employees — Jurisdiction.
58-2-204. Residency or presence in state not established — Broad interpretation of protections.
58-2-205. Effect of remaining in state after disaster response period.

Part 3. Business Fairness Act

58-2-301. Short title.
58-2-302. Continuation or resumption of business during state of emergency.

# PART 1

# GENERAL EMERGENCY PROVISIONS

## 58-2-101. Chapter definitions.

**Cross-References.**

Procedures when emergency necessitates change to polling place location within 10 days of election day, § 2-3-110.

## 58-2-103. Policy and purpose.

**Compiler's Notes.**

The Tennessee emergency management agency, created by this section and § 58-2-104, terminates June 30, 2025. See §§ 4-29-112, 4-29-246.

## 58-2-104. Creation of agency — Director and deputies.

**Compiler's Notes.**

The Tennessee emergency management agency, created by this section and § 58-2-103, terminates June 30, 2025. See §§ 4-29-112, 4-29-246.

## 58-2-107. Emergency management powers of the governor.

**Attorney General Opinions.**

The General Assembly has vested the Governor with exclusive responsibility and authority to assume control over all aspects of the State's response to an emergency such as the COVID-19 pandemic. Because the executive orders that the Governor issues pursuant to that authority have the force and effect of law, the Governor's directives in response to an emergency supersede and preempt any action taken by political subdivisions of the State. Absent an express delegation of power by the Governor, local governmental entities may not take actions that are either more restrictive or less restrictive with respect to the subjects addressed in the Governor's executive orders governing the State's emergency response to COVID-19. Such action would be at cross purposes with the Governor's orders, which are the law of the State, and would constitute an impermissible legal conflict. Just as the Governor may exercise his authority to delegate to a local governmental entity or to the local health department "such powers as the governor may deem prudent," the Governor may exercise his emergency powers to expressly authorize, or recognize the authority of, county health departments to take action that may otherwise be inconsistent with his executive orders. Such a delegation of authority may be revoked or modi-

fied at any time and, absent an express delegation or authorization by the Governor, the local health department or other local governmental entity may not take any action inconsistent with the Governor's executive orders. OAG 20-07, 2020 Tenn. AG LEXIS 5 (4/27/2020).

### 58-2-111. Possession of mobile telephone by person being housed in camp or shelter.

Notwithstanding any law to the contrary, a person being housed in a camp or shelter organized or maintained by the federal or Tennessee emergency management agency or a local emergency management agency, or pursuant to an action taken by such agency, is authorized to possess a mobile telephone.

**History.**
Acts 2019, ch. 457, § 1.

**Effective Dates.**
Acts 2019, ch. 457, § 2. May 22, 2019.

## PART 2

## FACILITATING BUSINESS RAPID RESPONSE TO STATE-DECLARED DISASTER ACT

### 58-2-201. Short title.

This part shall be known and may be cited as the "Facilitating Business Rapid Response to State-Declared Disaster Act."

**History.**
Acts 2019, ch. 378, § 1.

**Code Commission Notes.** Acts 2019, ch. 378, § 1 enacted a new part 9, §§ 58-2-901–58-2-905, but the part has been redesignated as part 2, §§ 58-2-201–58-2-205, by authority of the Code Commission.

**Compiler's Notes.**
For Preamble to the act concerning facilitating rapid response by the state's critical infrastructure companies, see Acts 2019, ch. 378.

**Effective Dates.**
Acts 2019, ch. 378, § 2. May 10, 2019.

### 58-2-202. Part definitions.

As used in this part:

(1) "Critical infrastructure" means real and personal property and equipment, including, but not limited to, buildings, offices, lines, poles, pipes, structures, and equipment that:

(A) Is owned or used by or for telecommunications service networks, mobile telecommunications service networks, internet access service networks, video programming service networks, direct-to-home satellite television programming service facilities, electric generation, transmission and distribution systems, gas distribution systems, fuel supply systems, including such systems for gasoline, diesel, biodiesel, heating fuel, jet fuel, and propane, water pipelines, and related support facilities; and

(B) Services multiple customers or citizens;

(2) "Disaster" has the same meaning as defined in § 58-2-101;

(3) "Disaster or emergency related work" means:

(A) Repairing, renovating, installing, building, and rendering services or other business activities that relate to critical infrastructure that has been damaged, impaired, or destroyed during a disaster or emergency; and

(B) Any activities conducted in good faith before a potential disaster or emergency to prepare for the provision of the work described in subdivision (3)(A);

(4) "Disaster response period" means the period that begins ten (10) days before the date of the earliest event establishing a disaster or emergency and that ends one hundred twenty (120) days thereafter, or such later date as may be set by the governor or president of the United States;

(5) "Emergency" has the same meaning as defined in § 58-2-101;

(6) "Licensed business" means a business entity that is currently licensed to do business in this state;

(7) "Responding out-of-state business" means a business entity that, except for work related to a disaster or emergency, has no presence in this state, conducts no business in this state, and whose services are requested by a licensed business or by this state or a local government for purposes of performing disaster or emergency related work in this state, including, but not limited to, a business entity that is affiliated with a licensed business solely through common ownership and otherwise meets this definition of a responding out-of-state business; and

(8) "Responding out-of-state employee" means an employee of a responding out-of-state business or licensed business who does not work in this state, except for disaster or emergency related work.

**History.**
Acts 2019, ch. 378, § 1.

**Code Commission Notes.** Acts 2019, ch. 378, § 1 enacted a new part 9, §§ 58-2-901–58-2-905, but the part has been redesignated as part 2, §§ 58-2-201–58-2-205, by authority of the Code Commission.

**Compiler's Notes.**
For Preamble to the act concerning facilitating rapid response by the state's critical infrastructure companies, see Acts 2019, ch. 378.

**Effective Dates.**
Acts 2019, ch. 378, § 2. May 10, 2019.

## 58-2-203. Payment of taxes and fees by responding out-of-state businesses and employees — Jurisdiction.

(a) Notwithstanding any law to the contrary, responding out-of-state businesses and responding out-of-state employees shall pay the following transaction taxes and fees, when the tax or fee is determined, collected, remitted, and reported by others duly registered and required to collect such taxes and fees:

(1) Fuel excise taxes imposed under title 67, chapter 3;

(2) State and local sales and use taxes imposed under title 67, chapter 6;

(3) Local hotel occupancy taxes imposed under title 67, chapter 4, part 14;

(4) Taxes imposed on the purchase or consumption of alcoholic beverages and beer under title 57; and

(5) Any other transaction tax or fee assessed, collected, or imposed on specific transactions or activities in the usual course of business without imposing any obligation on a responding out-of-state business or responding out-of-state employee to register, file a return, or otherwise self-report and remit the tax or fee due.

(b) Notwithstanding any law to the contrary, tangible personal property of a responding out-of-state business, upon being installed or affixed to real property within this state, sold or transferred to in-state persons, or otherwise

coming to rest and acquiring situs within this state, is subject to use tax, ad valorem tax, and any other tax imposed directly or indirectly on such property.

(c) This part does not limit or otherwise alter or amend the power of a court to exercise personal or in rem jurisdiction over responding out-of-state businesses, responding out-of-state employees, or their property; provided, that such jurisdiction must not be used as a basis to impose a tax, fee, or other obligation contrary to this part.

(d) This part does not confer immunity from criminal prosecution in a court of this state.

**History.**
Acts 2019, ch. 378, § 1.

**Code Commission Notes.** Acts 2019, ch. 378, § 1 enacted a new part 9, §§ 58-2-901–58-2-905, but the part has been redesignated as part 2, §§ 58-2-201–58-2-205, by authority of the Code Commission.

**Compiler's Notes.**
For Preamble to the act concerning facilitating rapid response by the state's critical infrastructure companies, see Acts 2019, ch. 378.

**Effective Dates.**
Acts 2019, ch. 378, § 2. May 10, 2019.

## 58-2-204. Residency or presence in state not established — Broad interpretation of protections.

(a) A responding out-of-state employee:

(1) Must not be considered to have established residency or a presence in this state that would require the employee or the employee's employer to administer, file, or pay taxes or fees or to be subjected to pay any other state or local tax or fee, except as expressly provided for in this part; and

(2) When holding a license, certificate, or other permit issued by the state of the employee's permanent residence or any other state as evidence that the employee is qualified to perform professional, mechanical, or other services, must be deemed licensed, certified, or permitted by this state to render disaster or emergency related work involving such professional, mechanical, or other services and must not be required to register, report, or pay any tax or fee related to such licensure, certification, or permitting in this state.

(b) A responding out-of-state business does not establish a level of presence during a disaster response period that would require the business to register, file, or remit state or local taxes or that would subject that business to any state licensing or registration requirements.

(c) Except as otherwise provided in this part, the protections afforded by this section must be interpreted broadly to relieve a responding out-of-state business and a responding out-of-state employee from any obligation to provide, require, or remit documentation, registration, taxes, fees, or other submissions or filings with this state or its political subdivisions, including, but not limited to, the following:

(1) Unemployment insurance;

(2) State and local occupational licensing fees;

(3) Registration for state and local sales and use tax, imposed by title 67, chapter 6, or any requirement to collect tax, file returns, or otherwise self-report or remit any sales or use tax to this state as a result of or in relation to any disaster or emergency related work;

(4) Any registration or regulation of businesses or public utilities by the secretary of state, public utilities commission, or any other agency or instrumentality of this state; and

(5) The franchise and excise tax imposed by title 67, chapter 4, parts 20 and 21, the business tax imposed by title 67, chapter 4, part 7, and any other state or local tax on or measured by, in whole or in part, net or gross income or receipts, so that all disaster or emergency related work of the responding out-of-state business that is conducted in this state must be disregarded with respect to any filing requirements for such tax, including the filing required for a unitary or combined group of which the responding out-of-state business may be a part. If an affiliate of a responding out-of-state business is required to file a combined or consolidated return, the responding out-of-state business's income, revenue, or receipts from disaster or emergency related work in this state must not be sourced to this state and must not otherwise impact or increase the amount of income, revenue, or receipts apportioned to this state.

**History.**
Acts 2019, ch. 378, § 1.

**Code Commission Notes.** Acts 2019, ch. 378, § 1 enacted a new part 9, §§ 58-2-901–58-2-905, but the part has been redesignated as part 2, §§ 58-2-201–58-2-205, by authority of the Code Commission.

**Compiler's Notes.**
For Preamble to the act concerning facilitating rapid response by the state's critical infrastructure companies, see Acts 2019, ch. 378.

**Effective Dates.**
Acts 2019, ch. 378, § 2. May 10, 2019.

### 58-2-205. Effect of remaining in state after disaster response period.

After a disaster response period, if a responding out-of-state business or a responding out-of-state employee remains in this state:

(1) Such business or individual loses the protections of this part; and

(2) For purposes of computing franchise and excise tax imposed by title 67, chapter 4, parts 20 and 21, and the business tax imposed by title 67, chapter 4, part 7, the computation must include in the tax base net or gross income or receipts from activities transacted during the disaster response period.

**History.**
Acts 2019, ch. 378, § 1.

**Code Commission Notes.** Acts 2019, ch. 378, § 1 enacted a new part 9, §§ 58-2-901–58-2-905, but the part has been redesignated as part 2, §§ 58-2-201–58-2-205, by authority of the Code Commission.

**Compiler's Notes.**
For Preamble to the act concerning facilitating rapid response by the state's critical infrastructure companies, see Acts 2019, ch. 378.

**Effective Dates.**
Acts 2019, ch. 378, § 2. May 10, 2019.

## PART 3

## BUSINESS FAIRNESS ACT

### 58-2-301. Short title.

This part is known and may be cited as the "Business Fairness Act."

**History.**
Acts 2021, ch. 155, § 1.

**Effective Dates.**
Acts 2021, ch. 155, § 2. July 1, 2021.

### 58-2-302. Continuation or resumption of business during state of emergency.

During the existence of a state of emergency declared pursuant to this chapter, a business entity may continue or resume its business if the business entity complies with safety precautions and guidelines issued by the governor, state department or agency, or a county or municipal governing body or agency acting in accordance with this chapter, or any executive order, proclamation, or rule issued pursuant to this chapter, to prevent a threat to the public caused by a pandemic, epidemic, or bioterrorism event, or the appearance of a novel or previously controlled or eradicated infectious agent or biological toxin.

**History.**
Acts 2021, ch. 155, § 1.

**Effective Dates.**
Acts 2021, ch. 155, § 2. July 1, 2021.

## PART 4

## CIVIL DEFENSE COMPACTS

### 58-2-402. Text of compact.

**Compiler's Notes.**
The Civil Defense and Disaster Compact, created by this section, terminates June 30, 2025. See §§ 4-29-112, 4-29-246.

### 58-2-403. Text of Emergency Management Assistance Compact.

**Compiler's Notes.**
The Emergency Management Assistance Compact, created by this section, terminates June 30, 2025. See §§ 4-29-112, 4-29-246.

## PART 7

## EARTHQUAKES

### 58-2-701. Interstate Earthquake Compact of 1988.

**Compiler's Notes.**
The Interstate Earthquake Compact of 1988, created by this section, terminates June 30, 2025. See §§ 4-29-112, 4-29-246.

# CHAPTER 3

# VETERANS' RIGHTS IN GENERAL

Section
58-3-106. Branch offices and field services.
58-3-114. Suicide prevention training.

### 58-3-106. Branch offices and field services.

(a) The commissioner of veterans services shall establish at some place in each congressional district in this state, a branch office in charge of an assistant commissioner or service officer, and such assistant commissioner or

service officer may at least once a month visit the county seat of each county within the assistant commissioner's or service officer's congressional district for the purpose of conferring with and assisting veterans in obtaining the benefits granted to them by this or any other statute of this state or of the United States. In addition thereto, such assistant commissioner or service officer shall actively cooperate with any and all veterans' organizations in each county in the assistant commissioner's or service officer's congressional district in the preparation and presentation of claims on behalf of veterans, and should any county or city or combination thereof provide a service officer to aid honorably discharged veterans, such assistant commissioner or service officer shall likewise actively cooperate with them and shall cooperate with any local organization on questions of placement of veterans in the local employment. Such service officers shall be appointed by the commissioner, with the approval of the governor, and where possible, shall be honorably discharged veterans and shall be as well qualified for the duties imposed on them herein as possible.

(b) The commissioner, from time to time, shall issue instructions, manuals of procedure and other bulletins to such assistant commissioners or service officers for the purpose of familiarizing them with their duties and of rendering them more efficient in the performance thereof. Such assistant commissioners or service officers shall not discriminate for or against any veterans' organization in the performance of any duties and no veteran shall be required to join any veterans' organization as a condition precedent to obtaining cooperation hereunder.

(c) Such service officers or assistant commissioners shall be paid such compensation as may be fixed by the commissioner, upon the approval of the governor, which compensation shall be uniform in all cases so far as possible but in addition thereto, they shall be allowed their necessary traveling expenses when on duty outside the county in which their office is located. Annually, before setting the compensation to be paid to service officers or assistant commissioners, the commissioner shall conduct a survey of the compensation paid to service officers in other states. The commissioner shall consider the results of the survey in setting the compensation of service officers or assistant commissioners.

(d) The commissioner is authorized to rent suitable quarters at some point in each congressional district, if the same cannot be procured otherwise in public buildings, as an office for such assistant commissioner or service officer and may employ in connection therewith as well as in connection with the principal office, such clerical assistance as may be found necessary, all with the approval of the governor, the salaries to be paid to be commensurate with those paid for like services in other departments of the state.

(e) The commissioner may likewise incur such other expenses as may be necessary for the administration of §§ 58-3-104 — 58-3-108, all of the same to be within the appropriation made for the department.

(f) In addition, the commissioner may upon the approval of the governor, establish additional offices in any congressional district where the commissioner finds that one (1) assistant commissioner or service officer is incapable of efficiently handling the volume of work placed upon the commissioner by §§ 58-3-104 — 58-3-108.

(g) For purposes of this section, "congressional district" means a congressional district established based upon the 1990 federal census.

**History.**
Acts 1945, ch. 40, § 5; C. Supp. 1950, § 1012.12 (Williams, § 1012.14); impl. am. Acts 1959, ch. 9, § 6; impl. am. Acts 1975, ch. 249, §§ 1-3; Acts 1975, ch. 249, § 6; T.C.A. (orig. ed.), § 7-1008; Acts 2004, ch. 553, §§ 1, 2; 2006, ch. 748, § 1; 2015, ch. 24, § 7; 2021, ch. 63, § 1.

**Amendments.**
The 2021 amendment deleted "of some war in which the United States was a participant" following "discharged veterans" in the last sentence of (a).

**Effective Dates.**
Acts 2021, ch. 63, § 2. March 29, 2021.

### 58-3-114. Suicide prevention training.

The department of veterans services shall provide training in suicide prevention to the employees of the department who directly interact with veterans. The training provided pursuant to this section must equip employees with the ability to recognize the warning signs of a potential suicide. The department may utilize resources from nonprofit organizations to provide the training required by this section.

**History.**
Acts 2020, ch. 531, § 1.

**Effective Dates.**
Acts 2020, ch. 531, § 2. January 1, 2021.

## CHAPTER 7

## STATE VETERANS' HOMES

Section
58-7-103. Powers and duties of board.

### 58-7-101. Establishment — Purpose — Funding requirements.

**Attorney General Opinions.**
Under Tennessee state law, the Tennessee State Veterans' Homes (TSVH) may not admit veterans who received a general discharge under honorable conditions. TSVH is required to provide support and care for honorably discharged veterans who served in the United States armed forces. An "honorable discharge" from the United States armed forces is separate and distinct from "a general discharge under honorable conditions." Furthermore, federal law does not preempt the eligibility requirements imposed by the state. To the contrary, federal law contemplates that each State will establish eligibility and admission criteria for its state veterans' homes. OAG 20-13, 2020 Tenn. AG LEXIS 17 (6/12/2020).

### 58-7-102. State veterans' homes board.

**Compiler's Notes.**
The Tennessee state veterans' home board, created by this section, terminates June 30, 2023. See §§ 4-29-112, 4-29-244.

### 58-7-103. Powers and duties of board.

(a) The board shall elect a chair from among its members. The chair shall be a citizen of the state and an honorably discharged veteran of the United States armed forces. The chair shall serve a two-year term. A chair may be reelected; provided, that no person shall serve as chair for more than two (2) consecutive terms.

(b) The board shall also select other officers as the board finds necessary and appropriate. The positions are for a period of one (1) year, but members may be reelected to serve additional terms; provided, that no person shall serve for more than two (2) consecutive terms.

(c) The board, pursuant to applicable state and federal law, is hereby vested and charged with those powers and duties necessary and proper to enable it to fully and effectively carry out this chapter, including, but not limited to:

(1) The authority to determine the location of the Tennessee state veterans' homes. In selecting the sites, preference shall be given to publicly owned land. Land for the sites may be purchased only if suitable publicly owned land is not available;

(2) The duty to adopt written policies and procedures to govern its internal operations;

(3) The authority to acquire, in the name of the board, real or personal property or any interest therein, including rights or easements, on either a temporary or long-term basis by gift, purchase, transfer, foreclosure, lease or otherwise;

(4) The authority to hold, sell, assign, lease, rent, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage interest owned by it or in its control, custody or possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including threat of foreclosure;

(5) The authority to incur debts, to borrow money, to issue debt instruments and to provide for the rights of the holders thereof;

(6) The authority to procure insurance against any loss in connection with its property and other assets in amounts and from insurers which it deems desirable;

(7) The authority to have employees authorized by the Tennessee state veterans' homes board solicit and receive bequests and donations for:

(A) The improvement of the general comfort and welfare of the members of the home or homes; or

(B) The future construction of a new home or homes;

(8) The authority to seek advice from the United Tennessee Veterans' Association (UTVA);

(9) The authority to seek assistance from the commissioner of finance and administration, the comptroller of the treasury, the state treasurer, and other state agencies;

(10) Do other acts necessary or convenient to exercise the powers granted or reasonably implied in this section;

(11) The authority to provide guidance to future administrators at state veterans' nursing homes based upon the collective institutional memory of the state veterans' homes board; and

(12) The authority to notify members of the general assembly and appropriate persons in the executive branch of potential problems in state veterans' nursing homes.

**History.**

Acts 1988, ch. 899, § 3; 2008, ch. 1137, §§ 3, 4; 2016, ch. 856, § 1; 2019, ch. 113, § 3.

**Amendments.**

The 2019 amendment substituted "two-year term" for "one-year term" at the end of the third sentence in (a).

**Effective Dates.**

Acts 2019, ch. 113, § 4. April 9, 2019.

# TITLE 59

# MINES AND MINING

Chapter
8. Strip and Open Pit Mines.
Part 1. Primacy and Reclamation Act of Tennessee
Part 2. Tennessee Mineral Surface Mining Law of 1972
Part 3. Tennessee Coal Surface Mining Law of 1980
Part 4. Coal Surface Mining Act of 1987 [Repealed]
10. Interstate Mining Compact.
12. Mine Rescue Operations [Repealed].

# CHAPTER 8

# STRIP AND OPEN PIT MINES

Part 1. Primacy and Reclamation Act of Tennessee

Section
59-8-101. Short title — Legislative findings and declarations — Purpose.
59-8-102. Part definitions.
59-8-103. Duties of commissioner.
59-8-104. Severability.
59-8-105. Rules for coal exploration operations.
59-8-106. Permits for engaging in surface coal mining operations.
59-8-107. Fees.
59-8-108. Performance bonds.
59-8-109. Reclamation plan.
59-8-110. General performance standards for surface coal mining and reclamation operations — Grant of permit without regard to requirement to restore to approximate original contour — Performance standards applicable to steep-slope surface coal mining — Variances.
59-8-111. Requirements to conduct underground coal mining operations — Promulgation of rules — Requirements for operator — Suspension of underground coal mining.
59-8-112. Advertisement of ownership, precise location, and boundaries of land to be affected by permit — Notification by commissioner — Written objections to proposed permit — Informal conference — Grant, requirement of modification, or denial of application — Permit renewal.
59-8-113. Application for revision of permit — Approval required for transfer, assignment, or sale of rights granted under permit Review of outstanding surface coal mining and reclamation operation permits.
59-8-114. Inspections of surface coal mining and reclamation operations — Monitoring data collection and analysis.
59-8-115. Request for release of all or part of performance bond or deposit.
59-8-116. Inspection of surface coal mining operation at which alleged violation is occurring — Notice of violation — Abatement of violation — Cessation order — Suspension or revocation of permit.
59-8-117. Civil penalties, fines, and imprisonment.
59-8-118. Civil action for relief.
59-8-119. Civil action to compel compliance.
59-8-120. Application for review of notice or order — Investigation and hearing — Request for temporary relief.
59-8-121. Judicial review of final order or determination.
59-8-122. Protection of interest in water resources affected by mining operation — Replacement of water supply — Repair or compensation for subsidence damage.
59-8-123. Authorized departures from environmental protection performance standards.
59-8-124. Effect of part on § 66-5-102.

Section
59-8-125. Designation of area as unsuitable for certain types of surface coal mining and reclamation operations.
59-8-126. Promulgation of rules for persons engaging in, or directly responsible for, blasting or use of explosives in surface coal mining operations.
59-8-127. Department employees prohibited from having financial interest in underground coal mining operation or surface coal mining and reclamation operation.
59-8-128. Effect of part on state law and authority of state agency.
59-8-129. Immediate conformance with statutes and rules — Federal permittees.
59-8-130. Compliance with part by governmental entity.
59-8-131. Prohibited discharge or discrimination of employee or representative of employees.
59-8-132. Coal mining protection fund.

Part 2. Tennessee Mineral Surface Mining Law of 1972

59-8-202. Definitions.
59-8-212. Tennessee surface mine reclamation fund — Other available funds.

Part 3. Tennessee Coal Surface Mining Law of 1980

59-8-302. Liens.
59-8-304. Part definitions.
59-8-305. Violations — Penalties.
59-8-307. [Repealed.]
59-8-308. Commissioner and personnel — Powers.

Part 4. Coal Surface Mining Act of 1987 [Repealed]

59-8-401 — 59-8-421. [Repealed.]

# PART 1

# PRIMACY AND RECLAMATION ACT OF TENNESSEE

## 59-8-101. Short title — Legislative findings and declarations — Purpose.

(a) This part shall be known and may be cited as the "Primacy and Reclamation Act of Tennessee."

(b) The general assembly finds and declares that:

(1) Coal is an integral component of the nation's energy requirements and that there is a need to strike a balance between protection of the environment, agricultural productivity, and economic development and the nation's need for coal as a source of energy;

(2) The unregulated exploration for and surface mining of coal can cause soil erosion and landslides, water and air pollution, and accumulation and seepage of contaminated water, and may contribute to floods, impair the value of land, adversely affect fish and wildlife and their habitats, counteract efforts for the conservation of soil, water, and other natural resources, adversely affect cultural resources, impair neighboring owners' property rights, create fire hazards, and in general create conditions inimical to life, property, and the public welfare, so as to require the exercise of the state's police power in the regulation of, exploration for, and surface mining of coal; and

(3) There are wide variations in the circumstances and conditions surrounding and arising out of the exploration for and surface mining of coal, due primarily to differences in topographical, geological, and soil conditions,

which make it necessary, in order to provide the most effective, beneficial, and equitable solution to the problem, that broad discretion be placed in the authority designated to administer and enforce the regulatory provisions enacted by the general assembly.

(c) It is the purpose of this part to:

(1) Assume for this state exclusive jurisdiction over the regulation of surface coal mining and reclamation operations within this state under the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.);

(2) Develop, implement, and enforce a program which, at a minimum, will achieve the purposes of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.) and the regulations promulgated thereunder;

(3) Assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances to the land are fully protected from those operations;

(4) Assure that surface coal mining operations are not conducted where reclamation as required by this part is not feasible;

(5) Assure that surface coal mining operations are conducted in a manner protective of the environment;

(6) Assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface coal mining operations;

(7) Assure that appropriate procedures are provided for public participation in the development, revision, and enforcement of rules, standards, reclamation plans, or programs established by the state under this part;

(8) Assure that the coal supply integral to the energy requirements of the nation and to its economic and social well-being is provided, and to strike a balance between protection of the environment, agricultural productivity and economic development and the need of the nation for coal as an integral component of the nation's energy requirements; and

(9) To, wherever necessary, exercise the full reach of state constitutional powers to ensure the protection of the public interest through effective control of surface coal mining operations.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-102. Part definitions.

As used in this part

(1) "Affected area":

(A) Means any land or water surface area that is used to facilitate, or is physically altered by, surface coal mining and reclamation operations; and

(B) Includes:

(i) The disturbed area;

(ii) Any area upon which surface coal mining and reclamation operations are conducted;

(iii) Any adjacent lands, the use of which is incidental to surface coal mining and reclamation operations;

(iv) All areas covered by new or existing roads used to gain access to, or for hauling coal to or from, surface coal mining and reclamation operations;

(v) Any area covered by surface excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, or shipping areas;

(vi) Any areas upon which are sited structures, facilities, or other property or materials on the surface resulting from, or incidental to, surface coal mining and reclamation operations; and

(vii) The area located above underground workings;

(2) "Alluvial valley floors" means the unconsolidated stream laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities but does not include upland areas that are generally overlain by a thin veneer of colluvial deposits composed chiefly of debris from sheet erosion, deposits by unconcentrated runoff or slope wash, together with talus, other mass movement accumulation, and wind-blown deposits;

(3) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining, and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the commissioner determines that the water impoundments comply with § 59-8-110(b)(8);

(4) "Commissioner" means the commissioner of environment and conservation or the commissioner's designee;

(5) "Department" means the department of environment and conservation;

(6) "Federal lands" means any land, including mineral interests, owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except Indian land; provided, that for the purposes of this part, lands or mineral interests east of the one hundredth meridian west longitude owned by the United States and entrusted to or managed by the Tennessee Valley Authority are not subject to 30 U.S.C. §§ 1304 and 1305;

(7) "Federal program" means a program established by the secretary pursuant to 30 U.S.C. § 1254 to regulate surface coal mining and reclamation operations on lands within a state in accordance with the requirements of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.);

(8) "Imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this part in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before the

condition, practice, or violation could be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement;

(9) "Lands eligible for remining" means those lands that would otherwise be eligible for expenditures under 30 U.S.C. §§ 1232(g)(4) or 1234;

(10) "Locality" means the county where all or the majority of a surface coal mining and reclamation operation is located;

(11) "Office" means the office of surface mining reclamation and enforcement, established by the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.);

(12) "Operator" means any person, partnership, or corporation engaged in coal mining who removes or intends to remove more than two hundred fifty (250) tons of coal from the earth by coal mining within twelve (12) consecutive months in any one (1) location;

(13) "Other minerals" means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substances of commercial value excavated in solid form from natural deposits on or in the earth, exclusive of coal and those minerals that occur naturally in liquid or gaseous form;

(14) "Permit" means a permit to conduct surface coal mining and reclamation operations issued by the commissioner;

(15) "Permit applicant" or "applicant" means a person applying for a permit;

(16) "Permit area" means the area of land indicated on the approved map submitted by the operator with the operator's application, which area of land is covered by the operator's bond as required by § 59-8-108 and shall be readily identifiable by appropriate markers on the site as required by § 59-8-112(j);

(17) "Permittee" means a person holding, or required by this part or rules promulgated by the commissioner to hold, a permit;

(18) "Person" means an individual, partnership, association, society, governmental agency or entity, joint stock company, firm, company, corporation, or other business organization;

(19) "Prime farmland" has the same meaning as that previously prescribed by the United States secretary of agriculture on the basis of such factors as moisture availability, temperature regime, chemical balance, permeability, surface layer composition, susceptibility to flooding, and erosion characteristics; which historically has been used for intensive agricultural purposes; and as published in 7 CFR 657.5;

(20) "Reclamation plan" means a plan submitted by an applicant for a permit under § 59-8-109, that sets forth a plan for reclamation of the proposed surface coal mining operations pursuant to § 59-8-109;

(21) "Secretary" means the secretary of the interior;

(22) "Spoil bank" means the overburden as it is piled or deposited in the process of mining;

(23) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of surface coal mining operations occurring on and after the effective date of this act;

(24) "Surface coal mining operations" means:

(A) Activities conducted on the surface of lands in connection with a surface coal mine or subject to § 59-8-111 relative to surface operations and surface impacts incident to an underground coal mine. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, cross ridge, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal at or near the mine site; provided, however, that such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale or coal explorations subject to § 59-8-105; and

(B) The areas upon which the activities described in subdivision (24)(A) occur or where the activities disturb the natural land surface. Such areas also include any adjacent land, the use of which is incidental to any of the activities described in subdivision (24)(A); all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of any of the activities described in subdivision (24)(A) and for haulage; and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to any of the activities described in subdivision (24)(A);

(25) "Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of a permit or any requirement of this part due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of a permit or this part due to indifference, lack of diligence, or lack of reasonable care; and

(26) "Willful" or "willfully" means that a person acted:

(A) Intentionally, voluntarily, or consciously; and

(B) With intentional disregard or plain indifference to legal requirements.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

**59-8-103. Duties of commissioner.**

(a) The commissioner shall:

(1) Administer the programs for controlling surface coal mining operations that are required by this part and enforce this part, and rules, permits, and orders promulgated or issued under this part;

(2) Conduct and obtain investigations, research, experiments, training programs, and demonstrations, and collect and disseminate information relating to exploration, surface coal mining, reclamation of disturbed lands, and control of pollution of water and soil affected by exploration and surface coal mining;

(3) Examine and either approve, request modification of, or disapprove applications for permits, maps, bonds, mining and reclamation plans, revegetation plans, and after-use plans submitted by applicants;

(4) Conduct those investigations and inspections necessary to ensure compliance with this part, including the authority to enter at any time upon a suspected affected area or an affected area for investigations and inspections and the right of ingress and egress across intervening properties;

(5) Employ and commission qualified individuals as surface coal mining personnel as provided in § 11-1-101. When properly qualified and commissioned, surface coal mining personnel shall enforce all laws, rules, permits, and orders administered by the commissioner under this part, including, but not limited to, authorization to serve process;

(6) Conduct hearings, administer oaths, issue subpoenas, and compel the attendance of witnesses and production of written or printed material as provided for in this part;

(7) Issue cease-and-desist orders and other orders as authorized by this part, in the office or on-site, requiring the adoption by a person of remedial measures necessary for carrying out this part or permits issued under this part;

(8) Order the suspension, revocation, or withholding of any permit for failure to comply with any of the provisions of this part or any rules adopted pursuant to this part;

(9)(A) Promulgate rules in accordance with title 4, chapter 5, as may be necessary to carry out the purposes of this part, including obtaining and maintaining the state's status as a regulatory authority under the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.);

(B) The rules may take proper account of mining conditions and practices in this state and differences in topography, geology, and soil conditions, and established use patterns of neighboring lands as recognized by local or state planning agencies;

(C) The rules may include federal program regulations promulgated specifically for this state under 30 CFR part 942, if the commissioner determines that such regulations are necessary to carry out the purposes of this part;

(D) Unless otherwise specifically authorized by this part, no rule promulgated under this subdivision shall impose a requirement that is more stringent than any existing federal regulation promulgated under

the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.);

(E) Any person may petition the commissioner to initiate a proceeding for the issuance, amendment, or repeal of a rule promulgated pursuant to this part. This subdivision (a)(9)(E), and not § 4-5-201, shall apply to rules promulgated pursuant to this part;

(i) The petition must be filed with the commissioner and must state the facts that support the issuance, amendment, or repeal of a rule promulgated pursuant to this part;

(ii) The commissioner may hold a public hearing or may conduct such investigation or proceeding as the commissioner considers appropriate in order to determine whether the petition should be granted or denied; and

(iii) Within ninety (90) days after the filing of a petition described in subdivision (a)(9)(E)(i), the commissioner shall either grant or deny the petition. If the commissioner grants the petition, the commissioner shall promptly commence rulemaking in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. If the commissioner denies the petition, the commissioner shall notify the petitioner in writing setting forth the reasons for the denial;

(10) Administer the program for the purchase and reclamation of abandoned and unreclaimed mined areas as provided in part 3 of this chapter; and

(11) Perform such other duties as may be provided by law and relate to the purposes of this part.

(b) The commissioner may, to effectuate the purposes of this part:

(1) Enter into contracts or other agreements; and

(2) Apply for, accept, administer, and utilize loans and grants from the federal government, state government, and from any other sources.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-104. Severability.

If any provision of this part or the application of any provision of this part to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the part that can be given effect without the invalid provision or application, and to that end, the provisions of this part are declared to be severable.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-105. Rules for coal exploration operations.

(a)(1) Coal exploration operations that substantially disturb the natural land surface shall be conducted in accordance with exploration rules promulgated by the commissioner.

(2) The rules for coal exploration operations shall include, but not be

limited to, requirements that:

(A) Any person planning to conduct exploration operations obtain an exploration permit from the commissioner before conducting those operations;

(B) The applicant submit:

(i) A description of the exploration area and the period of supposed exploration and any other information as the commissioner may require in the permit application; and

(ii) A fee as established by rule and a performance bond or other financial assurance in an amount at least as much as is necessary to reclaim the proposed disturbance as described in subdivision (a)(2)(C); and

(C) Reclamation in accordance with the performance standards in § 59-8-110 of all lands disturbed in exploration, including excavations, roads, drill holes and the removal of necessary facilities and equipment.

(b) Any person who conducts any coal exploration activities that substantially disturb the natural land surface in violation of this part or rules promulgated pursuant to this part is subject to the penalties in § 59-8-117.

(c) No operator shall remove more than two hundred fifty (250) tons of coal pursuant to an exploration permit without the specific written approval of the commissioner.

(d) Information submitted to the department and the commissioner pursuant to this section as confidential trade secrets or privileged commercial or financial information, which relates to the competitive rights of the person or entity intended to explore the described area, is not available for public examination under title 10, chapter 7.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-106. Permits for engaging in surface coal mining operations.

(a)(1) No person shall engage in surface coal mining operations without having first obtained a permit from the commissioner. All permits issued under this part must be issued for a term not to exceed five (5) years; however, if the applicant demonstrates that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing for equipment and the opening of the operation, and if the application is full and complete for the specified longer term, the commissioner may issue a permit for the longer term.

(2) A successor in interest to a permittee who submits a complete application for a new permit within thirty (30) days of succeeding to the interest, and who is able to obtain the bond coverage of the original permittee may, with the written approval of the commissioner, continue surface coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until the successor's application for a new permit and plan is granted or denied; provided, that operations under the original permit must not exceed the termination date of the original permit.

(b) The issuance of permits shall be subject to payment of any required fee, posting the performance bond required by this part, and submission to the department of an application, in a manner satisfactory to the commissioner, containing any information that is necessary to assure compliance with this part as prescribed in the rules promulgated by the commissioner, including but not limited to, the following:

(1) The names and addresses of:

(A) The permit applicant;

(B) Every legal owner of record of the property, both surface and mineral, to be mined;

(C) The holders of record of any leasehold interest in the property;

(D) Any purchaser of record of the property under a real estate contract;

(E) The operator, if the operator is a person different from the applicant; and

(F) If any person identified in subdivisions (b)(1)(A)-(E) is a business entity other than a single proprietor, the names and addresses of the principals, officers, and resident agent of the business entity;

(2) The names and addresses of the owners of record of all surface and subsurface areas adjacent to any part of the permit area;

(3) A statement of any current or previous surface coal mining permits in the United States held by the applicant and the permit identification and each pending application;

(4) If the applicant is a partnership, corporation, association, or other business entity, the following where applicable:

(A) The names and addresses of every officer, partner, director, or person performing a function similar to a director, of the applicant;

(B) The name and address of any person owning, of record ten percent (10%) or more of any class of voting stock of the applicant; and

(C) A list of all names under which the applicant, partner, or principal shareholder previously operated a surface mining operation within the United States within the five-year period immediately preceding the date of submission of the application;

(5) A statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, has ever held a federal or state mining permit which in the five-year period immediately prior to the date of submission of the application has been suspended or revoked or has had a mining bond or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved;

(6) A copy of the applicant's advertisement to be published in a newspaper of general circulation in the locality of the proposed site at least once a week for four (4) successive weeks, and which includes the ownership, a description of the exact location and boundaries of the proposed site sufficient so that the proposed operation is readily locatable by local residents, and the location of where the application is available for public inspection as provided in § 59-8-112(a);

(7) A description of the type and method of coal mining operation that exists or is proposed, the engineering techniques proposed or used, and the equipment used or proposed to be used;

(8) The anticipated or actual starting and termination dates of each phase of the mining operation and number of acres of land to be affected;

(9) The area of land within the permit area upon which the applicant has the legal right to enter and commence surface mining operations identified on an accurate map or plan, to an appropriate scale, clearly showing the land to be affected as of the date of the application and a statement of those documents upon which the applicant bases the applicant's legal right to enter and commence surface mining operations on the area affected, and whether that right is the subject of pending court litigation; provided, however, that nothing in this part vests in the commissioner the jurisdiction to adjudicate property title disputes;

(10) The name of the watershed and location of the surface stream or tributary into which surface and pit drainage will be discharged;

(11) A determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the commissioner of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability; provided, however, no determination shall be required until the time hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. No permit shall be issued until the information required by this subdivision (b)(11) is available and is incorporated into the application;

(12) When requested by the commissioner, the climatological factors that are peculiar to the locality of the land to be affected, including the average seasonal precipitation, the average direction and velocity of prevailing winds, and the seasonal temperature ranges;

(13) Accurate maps to an appropriate scale clearly showing:

(A) The land to be affected as of the date of application; and

(B) All types of information set forth on topographical maps of the United States Geological Survey of a scale of 1:24,000 or 1:25,000 or larger, including all manmade features and significant known archeological sites existing on the date of application. Such a map or plan must, among other things specified by the commissioner, show all boundaries of the land to be affected, the boundary lines and names of present owners of record of all surface areas abutting the permit area, and the location of all buildings within one thousand feet (1,000′) of the permit area;

(14) Cross-section maps or plans of the land to be affected including the actual area to be mined, prepared by or under the direction of and certified by a qualified registered professional engineer, or professional geologist with assistance from experts in related fields such as land surveying and landscape architecture, showing pertinent elevations and locations of test borings or core samplings and depicting the following information:

(A) The nature and depth of the various strata of overburden;

(B) The location of subsurface water, if encountered, and its quality;

(C) The nature and thickness of any coal or rider seam above the coal seam to be mined;

(D) The nature of the stratum immediately beneath the coal seam to be mined;

(E) All mineral crop lines and the strike and dip of the coal to be mined, within the area of land to be affected;

(F) Existing or previous surface mining limits;

(G) The location and extent of known workings of any underground mines, including mine openings to the surface;

(H) The location of aquifers;

(I) The estimated elevation of the water table;

(J) The location of spoil, waste, or refuse areas and top-soil preservation areas;

(K) The location of all impoundments for waste or erosion control;

(L) Any settling or water treatment facility;

(M) Any constructed or natural drainways and the location of any discharges to any surface body of water on the area of land to be affected or adjacent thereto; and

(N) Profiles at appropriate cross-sections of the anticipated final surface configuration that will be achieved pursuant to the operator's proposed reclamation plan;

(15)(A) A statement of the result of test borings or core samplings from the permit area, including:

(i) Logs of the drill holes;

(ii) The thickness of the coal seam found and, an analysis of the chemical properties of such coal;

(iii) The sulfur content of any coal seam;

(iv) Chemical analysis of potentially acid or toxic forming sections of the overburden; and

(v) Chemical analysis of the stratum lying immediately underneath the coal to be mined;

(B) The provisions of this subdivision (b)(15) may be waived by the commissioner with respect to the specific application by a written determination that such requirements are unnecessary; and

(16) For those lands in the permit application that a reconnaissance inspection suggests may be prime farmlands, a soil survey shall be made or obtained according to standards established by the United States secretary of agriculture in order to confirm the exact location of such prime farmlands, if any.

(c) Information pertaining to coal seams, test borings, core samplings, or soil samples required by this section shall be made available to any person with an interest that is or may be adversely affected; however, information that pertains only to the analysis of the chemical and physical properties of the coal, except that information regarding any mineral or elemental content, which is potentially toxic in the environment, shall be kept confidential and not made a matter of public record under title 10, chapter 7.

(d) Each applicant for a surface coal mining and reclamation operation permit shall submit a reclamation plan that meets the requirements of this part, to the commissioner as part of the permit application.

(e) Each applicant for a surface coal mining and reclamation permit shall submit, as part of the permit application, a blasting plan that outlines the procedures and standards by which the applicant will meet the requirements of § 59-8-110(b)(15).

(f) Each applicant for a surface coal mining permit shall submit, as part of the permit application, a certificate issued by an insurance company authorized to do business in this state, certifying that the applicant has a public liability insurance policy in force for the surface coal mining and reclamation operation for which the permit is sought, or evidence that the applicant is self-insured. The public liability insurance policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of surface coal mining and reclamation operations, including the use of explosives, and entitled to compensation under the applicable provisions of law. The policy shall be maintained in full force and effect during the terms of the permit or any renewal period, including the length of all reclamation operations.

(g) In any case when the private mineral estate has been severed from the private surface estate, the applicant for a permit shall submit one (1) of the following to the commissioner:

(1) The written consent of the surface owner to the extraction of coal by surface mining methods;

(2) A copy of a conveyance that expressly grants or reserves the right to extract coal by surface mining methods; or

(3) If the conveyance does not expressly grant the right to extract coal by surface mining methods, documentation that the applicant has the legal authority to extract the coal by surface mining methods. The surface-subsurface legal relationship shall be determined in accordance with the laws of this state. Nothing in this part authorizes the commissioner to adjudicate property rights disputes.

(h) The applicant for a permit shall submit a schedule listing any and all notices of violations of this part, the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.), or any law, rule, or regulation of the United States, or of any department or agency in the United States pertaining to air or water environmental protection incurred by the applicant in connection with any surface coal mining operation during the three-year period immediately prior to the date of application. The schedule must also indicate the final resolution of any such notice of violation.

(i)(1) If the commissioner finds that the probable total annual production at all locations of an operator will not exceed three hundred thousand (300,000) tons, the cost of the following activities, which shall be performed by a qualified public or private laboratory or such other public or private qualified entity designated by the commissioner, shall be assumed by the commissioner, subject to the availability of federal or other special funds specified for that purpose, upon the written request of the operator in connection with a permit application:

(A) The determination of probable hydrologic consequences required by subdivision (b)(11), including the engineering analyses and designs necessary for the determination;

(B) The development of cross-section maps and plans required by subdivision (b)(14);

(C) The geologic drilling and statement of results of test borings and core samplings required by subdivision (b)(15);

(D) The collection of archaeological information required by subdivision (b)(13) and any other archaeological and historical information required by the commissioner, and the preparation of plans necessitated thereby;

(E) Pre-blast surveys required by § 59-8-110(b)(15); and

(F) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values as required by the commissioner under this part.

(2) An operator that has received assistance pursuant to subdivision (i)(1) shall reimburse the department for the cost of the services rendered if the commissioner finds that the operator's actual and attributed annual production of coal for all locations exceeds three hundred thousand (300,000) tons during the twelve (12) months immediately following the date on which the operator is issued the surface coal mining and reclamation permit.

(j) The commissioner shall promulgate rules implementing exemption from this part for the following activities:

(1) Extraction of coal as an incidental part of federal, state, or local government financed highway or other construction; and

(2) Extraction of coal by a landowner for the landowner's own noncommercial use from land owned or leased by the landowner.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-107. Fees.

(a) The commissioner shall establish fees determined after careful consideration of the direct and indirect costs incurred by the department in performing its various functions and services under this part. The fees may include, but are not limited to, an exploration permit fee, an application fee, and a maintenance acreage fee taking into account the acreage permitted. In no instance shall a permit application fee exceed the actual or anticipated cost of reviewing, administering, and enforcing the permit.

(b) Prior to promulgating any fee increase, the commissioner shall review the basis for the fee increase and make a determination that the fee increase is warranted. The factors used in the determinations must include, if relevant: staffing needs, ability to attract and retain quality staff, feasible cost containment measures, comparisons with salaries paid by other governments and the private sector, levels of federal grants and state appropriations, and the ability of the program to maintain or improve its performance in carrying out its duties.

(c) Fees collected pursuant to this section shall be deposited in the coal mining protection fund, created in § 59-8-132.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

**59-8-108. Performance bonds.**

(a) After a surface coal mining and reclamation permit application is approved, but prior to issuance of the permit, the applicant shall file with the commissioner, on a form prescribed and furnished by the commissioner, a bond for performance payable to this state and conditioned on the faithful performance of this part and the permit. The bond shall cover the area of land within the permit area upon which the operator will initiate and conduct surface coal mining and reclamation operations within the initial term of the permit. As succeeding increments of surface coal mining and reclamation operations are to be initiated and conducted within the permit area, the operator shall file with the commissioner an additional bond or bonds to cover those increments in accordance with this section. The commissioner shall determine the amount of the bond required for each bonded area based upon the reclamation requirements of the approved permit and the probable difficulty of reclamation giving consideration to such factors as topography, geology of the site, hydrology, and revegetation potential. The amount of the bond must be sufficient to assure the completion of the reclamation plan if the work had to be performed by the commissioner in the event of forfeiture and in no case shall the bond for the entire area under one (1) permit be less than ten thousand dollars ($10,000).

(b)(1) Liability under the bond shall be for the duration of the surface coal mining and reclamation operation and for a period coincident with operator's responsibility for revegetation requirements in § 59-8-110. The bond must be executed by the operator and a corporate surety licensed to do business in this state, except that, subject to the approval of the commissioner, the operator may elect to deposit cash, negotiable bonds of the federal government or this state, negotiable certificates of deposit of any bank organized or transacting business in the United States, or any other collateral bonding method authorized by regulations promulgated by the secretary under such conditions as prescribed by the secretary. The cash deposit or market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area. Cash or securities so deposited shall be deposited upon the same terms as the terms upon which surety bonds may be deposited.

(2) The commissioner may approve an alternative bonding system if the system will achieve the objectives and purposes of the bonding program pursuant to this section.

(c) The commissioner may accept the bond of the applicant itself without separate surety when the applicant demonstrates to the satisfaction of the commissioner the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient for authorization to self-insure or bond. The commissioner may promulgate rules more stringent than the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.), or regulations promulgated pursuant to such act, implementing this subsection (c) to ensure the objectives and purposes of the bonding program pursuant to this section.

(d) The commissioner shall adjust the amount of the bond or deposit required and the terms of each acceptance of the operator's bond from time to

time as affected land acreages are amended and increased or decreased, as plans are changed, or when the cost of future reclamation changes.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-109. Reclamation plan.

(a) Each permit application shall include a reclamation plan that meets the requirements prescribed by the commissioner and contains the information in the degree of detail necessary to demonstrate that reclamation required by this part can be accomplished, including but not limited to:

(1) The identification of the lands subject to surface coal mining operations over the estimated life of those operations and the size, sequence, and timing of the subareas for which it is anticipated that individual permits for mining will be sought;

(2) The condition of the land to be covered by the permit prior to any mining, including:

(A) The uses existing at the time of the application, and if the land has a history of previous mining, the uses which preceded any mining;

(B) The capability of the land prior to any mining to support a variety of uses giving consideration to soil and foundation characteristics, topography, and vegetative cover, and, if applicable, a soil survey prepared pursuant to § 59-8-106(b)(16); and

(C) The productivity of the land prior to mining, including appropriate classification as prime farmlands, as well as the average yield of food, fiber, forage, or wood products from such lands obtained under high levels of management;

(3) The use that is proposed to be made of the land following reclamation, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses and the relationship of such use to existing land use policies and plans, and the comments of any owner of the surface and state and local governments, or agencies or subdivisions of such governments, that would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation;

(4) A detailed description of how the proposed postmining land use is to be achieved and the necessary support activities that may be needed to achieve the proposed land use;

(5) The engineering techniques proposed to be used in mining and reclamation and a description of the major equipment; a plan for the control of surface water drainage and of water accumulation; a plan, where appropriate, for backfilling, soil stabilization, and compacting, grading, and appropriate revegetation; a plan for soil reconstruction, replacement, and stabilization, pursuant to the performance standards in § 59-8-110(b)(7)(A)-(D), for those food, forage, and forest lands identified in § 59-8-110(b)(7); an estimate of the cost per acre of the reclamation, including a statement as to how the permittee plans to comply with each of the requirements set out in § 59-8-110;

(6) The consideration given to maximize the utilization and conservation of the solid fuel resource being recovered so that reaffecting the land in the

future can be minimized;

(7) A detailed estimated timetable for the accomplishment of each major step in the reclamation plan;

(8) The consideration given to making the surface mining and reclamation operations consistent with surface owner plans, and applicable state and local land use plans and programs;

(9) The steps to be taken to comply with applicable air and water quality laws and rules and any applicable health and safety standards;

(10) The consideration given to developing the reclamation plan in a manner consistent with local physical environmental and climatological conditions;

(11) All lands, interests in lands, or options on such interests held by the applicant or pending bids on interests in lands by the applicant, which lands are contiguous to the area to be covered by the permit;

(12) The results of test boring that the applicant has made at the area to be covered by the permit, or other equivalent information and data in a form satisfactory to the commissioner, including the location of subsurface water, and an analysis of the chemical properties, including acid forming properties of the mineral and overburden. Information that pertains only to the analysis of the chemical and physical properties of the coal, excepting information regarding such mineral or elemental contents that is potentially toxic in the environment, shall be kept confidential and not made a matter of public record; and

(13) A detailed description of the measures to be taken during the mining and reclamation process to assure the protection of:

(A) The quality of surface and groundwater systems, both on- and off-site, from adverse effects of the mining and reclamation process;

(B) The rights of present users to such water; and

(C) The quantity of surface and groundwater systems, both on- and off-site, from adverse effects of the mining and reclamation process or to provide alternative sources of water where such protection of quantity cannot be assured.

(b) Any information required by this section that is not required to be open for public inspection by this part shall be held in confidence by the commissioner and not made available for public inspection under title 10, chapter 7.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-110. General performance standards for surface coal mining and reclamation operations — Grant of permit without regard to requirement to restore to approximate original contour — Performance standards applicable to steep-slope surface coal mining — Variances.

(a) Any permit issued under this part to conduct surface coal mining and reclamation operations must require the operations to meet all applicable performance standards of this part and such other requirements as the commissioner shall promulgate.

(b) General performance standards apply to all surface coal mining and reclamation operations and must require the operation, at a minimum, to:

(1) Conduct surface coal mining operations to maximize the utilization and conservation of the solid fuel resource being recovered so that reaffecting the land in the future through surface coal mining can be minimized;

(2) Restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the permit applicants' declared proposed land use following reclamation is not deemed to be impractical or unreasonable or inconsistent with applicable land use policies and plans, involve unreasonable delay in implementation, or violate federal, state, or local law;

(3)(A) Except as provided in subsection (c) with respect to all surface coal mining operations backfill, compact (where advisable to ensure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated, unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this part;

(B) Notwithstanding subdivision (b)(3)(A), in surface coal mining:

(i) Which is carried out at the same location over a substantial period of time where the operation transects the coal deposit, and the thickness of the coal deposits relative to the volume of the overburden is large and where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region; and

(ii) Where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall after restoring the approximate contour, backfill, grade, and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest grade but not more than the angle of repose, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region and that such overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion, and water pollution and is revegetated in accordance with the requirements of this

part;

(4) Stabilize and protect all surface areas including spoil piles affected by the surface coal mining and reclamation operation to effectively control erosion and attendant air and water pollution;

(5) Remove the topsoil from the land in a separate layer, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil and when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick-growing plants or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner such other strata that is best able to support vegetation;

(6) Restore the topsoil or the best available subsoil which is best able to support vegetation;

(7) For all prime farmlands as identified in § 59-8-106(b)(16) to be mined and reclaimed, specifications for soil removal, storage, replacement, and reconstruction shall be established by the United States secretary of agriculture, and the operator shall, as a minimum, be required to:

(A) Segregate the A horizon of the natural soil, except where it can be shown that other available soil materials will create a final soil having a greater productive capacity; and if not utilized immediately, stockpile this material separately from other spoil, and provide needed protection from wind and water erosion or contamination by other acid or toxic material;

(B) Segregate the B horizon of the natural soil, or underlying C horizons or other strata, or a combination of such horizons or other strata that are shown to be both texturally and chemically suitable for plant growth and that can be shown to be equally or more favorable for plant growth than the B horizon, in sufficient quantities to create in the regraded final soil a root zone of comparable depth and quality to that which existed in the natural soil; and if not utilized immediately, stockpile this material separately from other spoil, and provide needed protection from wind and water erosion or contamination by other acid or toxic material;

(C) Replace and regrade the root zone material described in subdivision (b)(7)(B) with proper compaction and uniform depth over the regraded spoil material; and

(D) Redistribute and grade in a uniform manner the surface soil horizon described in subdivision (b)(7)(A);

(8) Create, if authorized in the approved mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated that:

(A) The size of the impoundment is adequate for its intended purposes;

(B) The impoundment dam construction will be so designed as to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under the Watershed Protection and Flood Prevention Act of 1954 (16 U.S.C. § 1006);

(C) The quality of impounded water will be suitable on a permanent basis for its intended use and that discharges from the impoundment will not degrade the water quality below water quality standards established pursuant to applicable federal and state law in the receiving stream;

(D) The level of water will be reasonably stable;

(E) Final grading will provide adequate safety and access for proposed water users; and

(F) Such water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses;

(9) Conduct any augering operation associated with surface mining in a manner to maximize recoverability of mineral reserves remaining after the operation and reclamation are complete and seal all auger holes with an impervious and noncombustible material in order to prevent drainage except where the commissioner determines that the resulting impoundment of water in such auger holes may create a hazard to the environment or the public health or safety. The commissioner may prohibit augering if necessary to maximize the utilization, recoverability, or conservation of the solid fuel resources or to protect against adverse water quality impacts;

(10) Minimize the disturbances to the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quality and quantity of water in surface and groundwater systems both during and after surface coal mining operations and during reclamation by:

(A) Avoiding acid or other toxic mine drainage by such measures as, but not limited to:

(i) Preventing or removing water from contact with toxic producing deposits;

(ii) Treating drainage to reduce toxic content that adversely affects downstream water upon being released to water courses; and

(iii) Casing, sealing, or otherwise managing boreholes, shafts, and wells and keeping acid or other toxic drainage from entering ground and surface waters;

(B) Conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow, or runoff outside the permit area, but in no event shall contributions be in excess of requirements set by applicable state or federal law;

(C) Constructing any siltation structures pursuant to subdivision (b)(10)(B) prior to commencement of surface coal mining operations. Such structures must be certified by a qualified registered engineer, or a qualified registered professional land surveyor if authorized by this state to prepare and certify such maps or plans, to be constructed as designed and as approved in the reclamation plan;

(D) Cleaning out and removing temporary or large settling ponds or other siltation structures from drainways after disturbed areas are revegetated and stabilized; and depositing the silt and debris at a site and in a manner approved by the commissioner;

(E) Restoring recharge capacity of the mined area to approximate premining conditions;

(F) Avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

(G) Preserving throughout the mining and reclamation process the essential hydrologic functions of alluvial valley floors in the arid and semiarid areas of the state; and

(H) Such other actions as the commissioner may prescribe;

(11) With respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working or excavations, stabilize all waste piles in designated areas through construction in compacted layers including the use of incombustible and impervious materials if necessary and assure the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to the provisions of this part;

(12) Refrain from surface coal mining within five hundred feet (500′) from active and abandoned underground mines in order to prevent breakthroughs and to protect health or safety of miners; provided, that the commissioner shall permit an operator to mine near, through, or partially through an abandoned underground mine or closer to an active underground mine if:

(A) The nature, timing, and sequencing of the approximate coincidence of specific surface mine activities with specific underground mine activities are jointly approved by the commissioner and the federal and state regulatory authorities concerned with health and safety of underground miners; and

(B) Such operations will result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public;

(13) Design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the standards and criteria developed pursuant to rules promulgated by the commissioner, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, and used either temporarily or permanently as dams or embankments. Such standards and criteria shall conform to the standards and criteria established by the secretary and used by the chief of engineers to ensure that flood control structures are safe and effectively perform their intended function. In addition to engineering and other technical specifications, the standards and criteria must include provisions for review and approval of plans and specifications prior to construction, enlargement, modification, removal, or abandonment; performance of periodic inspections during construction; issuance of certificates of approval upon completion of construction; performance of periodic safety inspections; and issuance of notices for required remedial or maintenance work;

(14) Ensure that all debris, acid-forming materials, toxic materials, or materials constituting a fire hazard are treated or buried and compacted or otherwise disposed of in a manner designed to prevent contamination of ground or surface waters and that contingency plans are developed to prevent sustained combustion;

(15) Ensure that explosives are used only in accordance with existing state and federal law and the rules promulgated by the commissioner, which

shall include provisions to:

(A) Provide adequate advance written notice to local governments and residents who might be affected by the use of such explosives by publication of the planned blasting schedule in a newspaper of general circulation in the locality and by mailing a copy of the proposed blasting schedule to every resident living within one-half mile (0.5 mi.) of the proposed blasting site and by providing daily notice to resident/occupiers in such areas prior to any blasting;

(B) Maintain for a period of at least three (3) years and make available for public inspection upon request a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay in the blasts;

(C) Limit the type of explosives and detonating equipment, the size, and the timing and frequency of blasts based upon the physical conditions of the site so as to prevent:

(i) Injury to persons;

(ii) Damage to public and private property outside the permit area;

(iii) Adverse impacts on any underground mine; and

(iv) Change in the course, channel, or availability of ground or surface water outside the permit area;

(D) Require that all blasting operations be conducted by trained and competent persons certified by the commissioner; and

(E) Provide that upon the request of a resident or owner of a man-made dwelling or structure within one-half mile (0.5 mi.) of any portion of the permitted area the applicant or permittee shall conduct a pre-blasting survey of such structures and submit the survey to the commissioner and a copy to the resident or owner making the request. The area of the survey shall be decided by the commissioner and shall include such provisions as the commissioner shall promulgate in accordance with regulations promulgated by the secretary;

(16) Ensure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations; provided, however, that where the applicant proposes to combine surface mining operations with underground mining operations to assure maximum practical recovery of the mineral resources, the commissioner may grant a variance for specific areas within the reclamation plan from the requirement that reclamation efforts proceed as contemporaneously as practicable to permit underground mining operations prior to reclamation:

(A) If the commissioner finds in writing that:

(i) The applicant has presented, as part of the permit application, specific, feasible plans for the proposed underground mining operations;

(ii) The proposed underground mining operations are necessary or desirable to assure maximum practical recovery of the mineral resource and will avoid multiple disturbances of the surface;

(iii) The applicant has satisfactorily demonstrated that the plan for the underground mining operations conforms to requirements for underground mining in the jurisdiction and that permits necessary for the underground mining operations have been issued by the appropriate

authority;

(iv) The areas proposed for the variance have been shown by the applicant to be necessary for the implementing of the proposed underground mining operations;

(v) No substantial adverse environmental damage, either on-site or off-site, will result from the delay in completion of reclamation as required by this part; and

(vi) Provisions for the off-site storage of spoil will comply with subdivision (b)(22);

(B) If the commissioner has promulgated specific rules to govern the granting of such variances in accordance with the provisions of this subdivision (b)(16), and has imposed such additional requirements as the secretary deems necessary;

(C) If variances granted under the provisions of this subdivision (b)(16) are to be reviewed by the commissioner not more than three (3) years from the date of issuance of the permit; and

(D) If liability under the bond filed by the applicant with the commissioner pursuant to § 59-8-108 shall be for the duration of the underground mining operations and until the requirements of this subsection (b) and § 59-8-115 have been fully complied with;

(17) Ensure that the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property;

(18) Refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to such channel so as to seriously alter the normal flow of water;

(19) Establish on the regraded areas, and all other lands affected, a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the approved postmining land use plan;

(20)(A) Assume the responsibility for successful revegetation, as required by subdivision (b)(19), for a period of five (5) full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with subdivision (b)(19), except where the annual average precipitation is twenty-six inches (26 in.) or less, then the operator's assumption of responsibility and liability will extend for a period of ten (10) full years after the last year of augmented seeding, fertilizing, irrigation, or other work; provided, that when the commissioner issues a written finding approving a long-term, intensive, agricultural postmining land use as part of the mining and reclamation plan:

(i) The applicable five- or ten-year period of responsibility for revegetation shall commence at the date of initial planting for the long-term intensive agricultural postmining land use; and

(ii) The commissioner may grant exception to subdivision (b)(19);

(B) On lands eligible for remining, assume the responsibility for successful revegetation for a period of two (2) full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards, except in those areas or regions of the state where the annual average precipitation is twenty-six inches (26 in.) or less, then the operator's assumption of responsibility and liability will be extended for a period of five (5) full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards;

(21) Protect offsite areas from slides or damage occurring during the surface coal mining and reclamation operations, and not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area;

(22) Place all excess spoil material resulting from surface coal mining and reclamation activities in such a manner that:

(A) Spoil is transported and placed in a controlled manner in position for concurrent compaction and in such a way to assure mass stability and to prevent mass movement;

(B) The areas of disposal are within the bonded permit areas and all organic matter shall be removed immediately prior to spoil placement;

(C) Appropriate surface and internal drainage systems and diversion ditches are used so as to prevent soil erosion and movement;

(D) The disposal area does not contain springs, natural water courses, or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains in such a manner that filtration of the water into the spoil pile will be prevented;

(E) If placed on a slope, the spoil is placed upon the most moderate slope among those upon which, in the judgment of the commissioner, the spoil could be placed in compliance with all the requirements of this part and the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.) and shall be placed, where possible, upon, or above, a natural terrace, bench, or berm, if such placement provides additional stability and prevents mass movement;

(F) Where the toe of the spoil rests on a downslope, a rock toe buttress, of sufficient size to prevent mass movement, is constructed;

(G) The final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses;

(H) Design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards; and

(I) All other provisions of this part and the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.) are met;

(23) Meet such other criteria as are necessary to achieve reclamation in accordance with the purposes of this part and the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.), taking into consideration the physical, climatological, and other characteristics of the site;

(24) To the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such re-

sources where practicable; and

(25) Provide for an undisturbed natural barrier beginning at the elevation of the lowest coal seam to be mined and extending from the outslope for such distance as the commissioner shall determine shall be retained in place as a barrier to slides and erosion.

(c)(1) Where an applicant meets the requirements of subdivisions (c)(2) and (c)(3), a permit without regard to the requirement to restore to approximate original contour set forth in subdivision (b)(3) or subdivisions (d)(2) and (d)(3) may be granted for the surface mining of coal where the mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill (except as provided in subdivision (c)(3)(A)) by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining, and capable of supporting postmining uses pursuant to this subsection (c).

(2) In cases where an industrial, commercial, agricultural, residential, or public facility use, including use as a recreational facility, is proposed for the postmining use of the affected land, the regulatory authority may grant a permit for a surface mining operation of the nature described in subdivision (c)(1) where:

(A) After consultation with the appropriate land use planning agencies, if any, the proposed postmining land use is deemed to constitute an equal or better economic or public use of the affected land, as compared with pre-mining use;

(B) The applicant presents specific plans for the proposed postmining land use and appropriate assurances that such use will be:

(i) Compatible with adjacent land uses;

(ii) Obtainable according to data regarding expected need and market;

(iii) Assured of investment in necessary public facilities;

(iv) Supported by commitments from public agencies where appropriate;

(v) Practicable with respect to private financial capability for completion of the proposed use;

(vi) Planned pursuant to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the postmining land use; and

(vii) Designed by a registered engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site;

(C) The proposed use would be consistent with adjacent land uses, and existing state and local land use plans and programs;

(D) The commissioner provides the governing body of the local government in which the land is located and any state or federal agency that the commissioner, in the commissioner's discretion, determines to have an interest in the proposed use, an opportunity of not more than sixty (60) days to review and comment on the proposed use; and

(E) All other requirements of this part will be met.

(3) In granting any permit pursuant to this subsection (c) the commis-

sioner shall require that:

(A) The toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion;

(B) The reclaimed area is stable;

(C) The resulting plateau or rolling contour drains inward from the outslopes except at specified points;

(D) No damage will be done to natural watercourses;

(E) Spoil will be placed on the mountaintop bench as is necessary to achieve the planned postmining land use; provided, that all excess spoil material not retained on the mountaintop shall be placed in accordance with the provisions of subdivision (b)(22); and

(F) Ensure stability of the spoil retained on the mountaintop and meet the other requirements of this part.

(4) The commissioner shall promulgate specific rules to govern the granting of permits under this subsection (c), and may impose additional requirements that the commissioner determines to be necessary.

(5) All permits granted under the provisions of this subsection (c) shall be reviewed not more than three (3) years from the date of issuance of the permit, unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the approved schedule and reclamation plan.

(d) The following performance standards apply to steep-slope surface coal mining and are in addition to the general performance standards required by this section; provided, however, that this subsection (d) shall not apply to those situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area or where an operator is in compliance with subsection (c):

(1) Ensure that when performing surface coal mining on steep slopes, no debris, abandoned or disabled equipment, spoil material, or waste mineral matter is placed on the downslope below the bench or mining cut; provided, that spoil material in excess of that required for the reconstruction of the approximate original contour under the provisions of subdivisions (b)(3) or (d)(2) shall be permanently stored pursuant to subdivision (b)(22);

(2) Complete backfilling with spoil material shall be required to cover completely the highwall and return the site to the appropriate original contour, which material will maintain stability following mining and reclamation;

(3) The operator may not disturb land above the top of the highwall unless the commissioner finds that such disturbance will facilitate compliance with the environmental protection standards of this section; provided, however, that the land disturbed above the highwall shall be limited to that amount necessary to facilitate said compliance; and

(4) For the purposes of this subsection (d), the term "steep slope" means any slope above twenty degrees (20°) or such lesser slope as may be defined by the commissioner after consideration of soil, climate, and other characteristics.

(e)(1) The commissioner may grant variances for the purposes set forth in this subsection (e); provided, that the watershed control of the area is

improved and that complete backfilling with spoil material shall be required to cover completely the highwall, which material will maintain stability following mining and reclamation.

(2) If an applicant meets the requirements of subdivision (e)(3), the commissioner may grant a variance from any requirement to restore the area to the approximate original contour in subdivision (d)(2) if the owner of the surface knowingly requests in writing, as a part of the permit application, that a variance be granted so as to render the land, after reclamation, suitable for an industrial, commercial, residential, or public use, including recreational facilities, in accordance with subdivision (e)(3) and the following:

(A) After consultation with the appropriate land use planning agencies, if any, the potential use of the affected land shall constitute an equal or better economic or public use;

(B) The backfilling and regrading shall be designed and certified by a registered engineer or a licensed professional geologist in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site; and

(C) After approval by the commissioner, the watershed of the affected land is deemed to be improved.

(3) In granting a variance under this subsection (e), the commissioner shall require that only such amount of spoil will be placed off the mine bench as is necessary to achieve the planned post-mining land use, ensure stability of the spoil retained on the bench, meet all other requirements of this part, and all spoil placement off the mine bench must comply with subdivision (b)(22).

(4) The commissioner shall promulgate specific rules to govern the granting of variances in accordance with this subsection (e), and may impose such additional requirements as the commissioner determines to be necessary.

(5) All variances granted under this subsection (e) shall be reviewed within three (3) years of the date of issuance of the permit, unless the permittee affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the reclamation plan.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-111. Requirements to conduct underground coal mining operations — Promulgation of rules — Requirements for operator — Suspension of underground coal mining.

(a) No person shall conduct underground coal mining operations until that person obtains a permit limiting and controlling the surface effects of the mining, pays the fees required by § 59-8-107, and posts a performance bond conditioned on satisfactory reclamation of the surface disturbances of the underground coal mining operations under § 59-8-108.

(b) The commissioner shall promulgate rules that are designed to minimize the surface effects of underground coal mining operations; however, in adopting rules, the commissioner shall consider the distinct difference between

surface coal mining and underground coal mining. The rules shall not conflict with nor supersede the federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. § 801 et seq.), or any regulation issued pursuant to that act.

(c) Each permit issued under this part and relating to underground coal mining shall require the operator to:

(1) Adopt measures consistent with known technology in order to prevent subsidence causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of such surface lands, except in those instances where the mining technology used requires planned subsidence in a predictable and controlled manner; provided, that nothing in this subdivision (c)(1) prohibits the standard method of room and pillar mining;

(2) Seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine working when no longer needed for the conduct of the mining operations;

(3) Fill or seal exploratory holes no longer necessary for mining, maximizing to the extent technologically and economically feasible return of mine and processing waste, tailings, and any other waste incident to the mining operation, to the mine workings or excavations;

(4) With respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations, stabilize all waste piles created by the permittee from current operations through construction in compacted layers including the use of incombustible and impervious materials if necessary and assure that the leachate will not degrade surface or ground waters below water quality standards established pursuant to applicable federal and state law and that the final contour of the waste accumulation will be compatible with natural surroundings and that the site is stabilized and revegetated according to the provisions of this section;

(5) Design, locate, construct, operate, maintain, enlarge, modify, and remove, or abandon, in accordance with the standards and criteria developed pursuant to § 59-8-110, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes and used either temporarily or permanently as dams or embankments;

(6) Establish on regraded areas and all other lands affected, a diverse and permanent vegetative cover capable of self-regeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area;

(7) Protect offsite areas from damages that may result from such mining operations;

(8) Eliminate fire hazards and otherwise eliminate conditions that constitute a hazard to health and safety of the public;

(9) Minimize the disturbances of the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quantity of water in surface and groundwater systems both during and after coal mining operations and during reclamation by:

(A) Avoiding acid or other toxic mine drainage by such measures as, but

not limited to:

(i) Preventing or removing water from contact with toxic producing deposits;

(ii) Treating drainage to reduce toxic content that adversely affects downstream water upon being released to water courses; and

(iii) Casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters; and

(B) Conducting surface coal mining operations to prevent, to the extent possible, using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area (but in no event shall such contributions be in excess of requirements set by applicable state or federal law), and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

(10) With respect to other surface impacts not specified in this subsection (c), including the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities, operate in accordance with the standards established under § 53-3-110 for such effects which result from surface coal mining operations; provided, that the commissioner shall make modifications in the requirements imposed by this subdivision (b)(10) that are necessary to accommodate the distinct difference between surface and underground coal mining;

(11) To the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable; and

(12) Locate openings for all new drift mines working acid-producing or iron-producing coal seams in such a manner as to prevent a gravity discharge of water from the mine.

(d) In order to protect the stability of the land, the commissioner shall suspend underground coal mining under urbanized areas, cities, towns, and communities, and adjacent to industrial or commercial buildings, major impoundments, or permanent streams, if the commissioner finds an imminent danger to inhabitants of the urbanized areas, cities, towns, and communities.

(e) The requirements of this part relating to permits, bonds, inspections and enforcement, public review, and administrative and judicial review shall apply to surface operations and surface impacts incidental to an underground coal mine with modifications to permit application requirements, permit approval or denial procedures, and bond requirements that are necessary to accommodate the distinct difference between surface coal mining and underground coal mining. The commissioner shall promulgate rules for the modifications for underground coal mines.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

**59-8-112. Advertisement of ownership, precise location, and boundaries of land to be affected by permit — Notification by commissioner — Written objections to proposed permit — Informal conference — Grant, requirement of modification, or denial of application — Permit renewal.**

(a)(1)(A) At the time of submission of an application for a surface coal mining and reclamation permit, or revision of an existing permit, pursuant to the provisions of this part the applicant shall:

(i) Submit to the commissioner a copy of the applicant's advertisement of the ownership, precise location, and boundaries of the land to be affected; and

(ii) Place the advertisement submitted in a local newspaper of general circulation in the locality of the proposed surface mine at least once a week for four (4) consecutive weeks.

(B) The commissioner shall notify various local governmental bodies, planning agencies, and sewage and water treatment authorities, or water companies in the locality in which the proposed surface mining will take place, notifying them of the operator's intention to surface mine a particularly described tract of land and indicating the application's permit number and where a copy of the proposed mining and reclamation plan may be inspected. These local bodies, agencies, authorities, or companies may submit written comments within a reasonable period established by the commissioner on the mining applications with respect to the effect of the proposed operation on the environment that are within their area of responsibility. Such comments shall immediately be transmitted to the applicant by the commissioner and shall be made available to the public at the same locations as are the mining applications.

(C) Each applicant for a surface coal mining and reclamation permit shall file a copy of the applicant's application for public inspection with the recorder at the courthouse of the county or an appropriate public office approved by the commissioner where the mining is proposed to occur, except for that information pertaining to the coal seam itself.

(2)(A) Any person having an interest which is, or may be, adversely affected or the officer or head of any federal, state, or local governmental agency or authority has the right to file written objections to the proposed initial or revised application for a permit for surface coal mining and reclamation operation with the commissioner within thirty (30) days after the last publication of the notice published pursuant to subdivision (a)(1). The objections shall immediately be transmitted to the applicant by the commissioner and shall be made available to the public.

(B) If written objections are filed and an informal conference requested, the commissioner shall then hold an informal conference in the locality of the proposed mining, if requested within a reasonable time of the receipt of such objections or request.

(i) The commissioner shall advertise the date, time and location of the informal conference in a newspaper of general circulation in the locality at least two (2) weeks prior to the scheduled conference date.

(ii) The commissioner may arrange with the applicant, upon request by any party to the administrative proceeding, access to the proposed mining area for the purpose of gathering information relevant to the proceeding.

(iii) An electronic or stenographic record shall be made of the conference proceeding, unless waived by all parties. The record shall be maintained and shall be accessible to the parties until final release of the applicant's performance bond.

(iv) In the event all parties requesting the informal conference stipulate agreement prior to the requested informal conference and withdraw their request, the informal conference need not be held.

(3) Where the lands included in an application for a permit are the subject of a federal coal lease in connection with which hearings were held and determinations were made under 30 U.S.C. §§ 201(a)(3)(A), (B), and (C), the hearings shall be deemed as to the matters covered to satisfy the requirements of this subsection (a) and subsections (e) and (f) and the determinations shall be deemed to be a part of the record and conclusive for purposes of subsections (b), (e), and (f) and this subsection (a).

(b)(1)(A) Upon the basis of a complete mining application and reclamation plan or a revision or renewal thereof, as required by this part, including public notification and an opportunity for a public hearing as required by this section, the commissioner shall grant, require modification of, or deny the application for a permit in a reasonable time set by the commissioner by rule and notify the applicant in writing.

(B) The applicant for a permit, or revision of a permit, shall have the burden of establishing that the application complies with all the requirements of this part.

(C) Within ten (10) days after the granting of a permit, the commissioner shall notify the local governmental officials in the local political subdivision in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land.

(2) The commissioner shall not approve a permit or revision application unless the application affirmatively demonstrates, and the commissioner makes a written finding based on the information in the application or information otherwise available that is documented in the approval and made available to the applicant, that:

(A) The permit application is accurate and complete and that all the requirements of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.) and this part have been complied with;

(B) The applicant has demonstrated that reclamation, as required by the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.) and this part, can be accomplished under the reclamation plan contained in the permit application;

(C) The commissioner has assessed the probable cumulative impact of all anticipated surface coal mining in the area on the hydrologic balance as specified in § 59-8-106(b), and the proposed operation thereof has been designed to prevent material damage to the hydrologic balance outside the permit area;

(D) The area proposed to be mined is not included within an area designated unsuitable for surface coal mining and reclamation pursuant to 30 U.S.C. § 1272 or § 59-8-125, or is not within an area under study for that designation in an administrative proceeding commenced pursuant to § 59-8-125, unless the applicant demonstrates that, prior to January 1, 1977, the applicant made substantial legal and financial commitments in relation to a mining operation for which the applicant is applying for a permit; and

(E) In cases where the private mineral estate has been severed from the private surface estate, the applicant has submitted to the regulatory authority the documentation prescribed by § 59-8-106(g).

(c)(1) When the schedule submitted as prescribed by § 59-8-106(h) or other information available to the commissioner indicates that any surface coal mining and reclamation operation owned or controlled by the applicant is currently in violation of this part, the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.), or any law, rule, or regulation of the United States, or of any department or agency in the United States pertaining to air or water environmental protection in connection with any surface coal mining operation, the commissioner shall not issue the permit until the applicant submits proof that the violation has been corrected or is in the process of being corrected to the satisfaction of the commissioner, department, or agency that has jurisdiction over the violation.

(2) The commissioner shall not issue a permit to an applicant after a finding by the commissioner, after opportunity for a hearing, that the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violations of this part of a nature and duration with resulting irreparable damage to the environment as to indicate an intent not to comply with this part. The hearing held pursuant to this subdivision (c)(2) shall be conducted as a contested case under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, except to the extent that this part or rules promulgated by the commissioner pursuant to this part are inconsistent, in which case this part or the rules promulgated by the commissioner apply.

(3) The prohibitions of this subsection (c) do not apply to a permit application due to any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the person making such application.

(4) As used in this subsection (c), "unanticipated event or condition" means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit.

(d)(1) In addition to finding the application in compliance with subdivision (b)(2), if an area proposed to be mined for coal contains prime farmland, the commissioner shall, after consultation with and the concurrence of, the United States secretary of agriculture, and pursuant to the rules promulgated by the commissioner that are consistent with regulations promulgated by the secretary with the concurrence of the United States secretary of agriculture, grant a permit to surface mine for coal on prime farmland if the

commissioner finds in writing that the operator has the technological capability to restore the mined area within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards in this part. Except for compliance with subdivision (b)(2), the requirements of this subdivision (d)(1) shall apply to all permits issued after August 3, 1977.

(2) Nothing in this subsection (d) applies to any permit issued prior to August 3, 1977, or to any revisions or renewals to those permits, or to any existing surface coal mining operations for which a permit was issued prior to August 3, 1977.

(e)(1) If an informal conference is held under subdivision (a)(2), the commissioner shall issue and furnish to the applicant and other persons who are parties to the administrative proceedings the commissioner's written findings, granting or denying the permit in whole or in part, and stating the reasons for the grant or denial, within sixty (60) days of the informal conference.

(2) If an informal conference is not held under subdivision (a)(2), the commissioner shall notify the applicant for a permit within a reasonable time as determined by the commissioner by rule, taking into account the time needed for proper investigation of the site, the complexity of the permit application, and whether or not written objection to the application has been filed, whether the application has been approved or disapproved in whole or in part.

(f)(1) If the application is approved, the permit shall be issued upon the posting of the required bond.

(2) If the application is disapproved, the commissioner shall state the specific reasons for the disapproval in the notification.

(3)(A) Within thirty (30) days after the applicant is notified of the final decision of the commissioner on the permit application, the applicant or any person with an interest which is or may be adversely affected may request a hearing on the reasons for the final determination.

(B)(i) The commissioner shall hold a hearing conducted as a contested case under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, except to the extent that this part or rules promulgated by the commissioner pursuant to this part are inconsistent, in which case this part or the rules promulgated by the commissioner apply. The hearing shall be held within thirty (30) days of the request and the commissioner shall provide notification to all interested parties at the time that the applicant is so notified. No person that presided at the conference held pursuant to subdivision (a)(2) shall either preside at the hearing or participate in the decision arising from the hearing.

(ii) Within thirty (30) days after the hearing the commissioner shall issue and furnish the applicant, and all persons who participated in the hearing, with the commissioner's written decision granting or denying the permit in whole or in part and stating the reasons for the approval or denial.

(C) Where a hearing is requested pursuant to this subsection (f), the commissioner may, under such conditions as the commissioner may prescribe, grant such temporary relief as the commissioner deems appropriate pending final determination of the proceedings if:

(i) All parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(ii) The person requesting such relief shows that there is a substantial likelihood that the person will prevail on the merits of the final determination of the proceeding; and

(iii) The relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

(D)(i) For the purpose of the hearing, the commissioner has the powers and authorities as provided in this part and title 4, chapter 5, including but not limited to the power and authority to administer oaths, subpoena witnesses or written or printed materials, compel attendance of the witnesses or production of the materials, and take evidence, including, but not limited to, site inspections of the land to be affected and other surface coal mining operations carried on by the applicant in the general vicinity of the proposed operation.

(ii) A verbatim record of each public hearing required by this part shall be made, and a transcript made available on the motion of any party or by order of the commissioner.

(E) Any applicant or any person with an interest which is or may be adversely affected who has participated in the hearing under this subsection (f), and who is aggrieved by the decision of the commissioner, or if the commissioner fails to act within the time limits specified in this part, shall have the right to petition for judicial review as provided in § 59-8-121.

(g)(1) A permit terminates if the permittee has not commenced the surface coal mining operations covered by the permit within three (3) years of the date of issuance of the permit; however, the commissioner may grant reasonable extensions of time upon a showing that the extensions are necessary by reason of litigation precluding commencement of operations or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee.

(2) In the case of a coal lease issued under the federal Mineral Leasing Act (30 U.S.C. § 181 et seq.), extensions of time may not extend beyond the period allowed for diligent development in accordance with 30 U.S.C. § 207.

(3) In the case of coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at the time that the construction of the synthetic fuel or generating facility is initiated.

(h)(1) Any valid permit issued pursuant to this part carries with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holder of the permit may apply for renewal, and a renewal shall be issued subsequent to fulfillment of the public notice requirements of this section. In the determination of whether

to approve or deny a renewal of a permit, the burden of proof is on the opponents of renewal. The commissioner shall grant a permit renewal, unless the commissioner makes written findings that:

(A) The terms and conditions of the existing permit are not being satisfactorily met;

(B) The present surface coal mining and reclamation operation is not in compliance with this part or rules or orders issued or promulgated by the commissioner pursuant to this part, including the environmental protection standards of this part and the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.);

(C) The renewal requested substantially jeopardizes the permittee's continuing responsibility on existing permit areas;

(D) The operator has not provided evidence that the performance bond in effect for the operation will continue in full force and effect for any renewal requested in the application, as well as any additional bond the commissioner might require under § 59-8-108; or

(E) Any additional revised or updated information required by the commissioner has not been provided.

(2) Prior to the approval of any permit renewal, the commissioner shall provide notice to the appropriate public authorities.

(3) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit that addresses any new land areas is subject to the full standards applicable to new applications under this part.

(4) The term of a permit renewal shall not exceed the term of the original permit. Application for permit renewal shall be made at least one hundred twenty (120) days prior to the expiration of the current permit.

(i) On or after the effective date of this act, and subject to valid existing rights, no surface coal mining and reclamation operations, except those which existed on August 3, 1977, are permitted:

(1) On any lands within the boundaries of units of the national park system, the national wildlife refuge systems, the national system of trails, the national wilderness preservation system, the wild and scenic rivers system, including study rivers designated under 16 U.S.C. § 1276(a), and national recreation areas designated by an act of congress;

(2) On any federal lands within the boundaries of any national forest; however, surface coal mining and reclamation operations may be permitted if the secretary finds that there are no significant recreational, timber, economic, or other values that may be incompatible with surface coal mining and reclamation operations, and the surface operations and impacts are incident to an underground coal mine;

(3) Which will adversely affect any publicly owned park or places included in the National Register of Historic Sites, unless approved jointly by the commissioner and the federal, state, or local agency with jurisdiction over the park or the historic site;

(4) Within one hundred feet (100') of the outside right-of-way line of any public road, except where mine access roads or haulage roads join a

right-of-way line; however, the commissioner may permit the roads to be relocated or the area affected to lie within one hundred feet (100') of a road, if, after public notice and opportunity for public hearing in the locality, a written finding is made that the interests of the public and the affected landowners are protected;

(5) Within three hundred feet (300') from any occupied dwelling, unless waived by the owner, nor within three hundred feet (300') of any public building, school, church, community, institutional building, or public park; or

(6) Within one hundred feet (100') of a cemetery.

(j) The permit area shall be readily identifiable by appropriate markers on the site.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

**59-8-113. Application for revision of permit — Approval required for transfer, assignment, or sale of rights granted under permit Review of outstanding surface coal mining and reclamation operation permits.**

(a)(1) During the term of the permit, the permittee may submit to the commissioner an application for a revision of the permit, together with a revised reclamation plan. The commissioner may also require the revision of a permit or a mining or reclamation plan if the present plan is inadequate to protect the public and the environment consistent with this part subject to the requirements of subdivision (a)(2).

(2) The commissioner shall not approve an application for a revision of a permit unless the commissioner finds that the revision meets all the standards of this part and the commissioner's rules including that reclamation as required by the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.) and this part can be accomplished under the revised reclamation plan. The revision shall be approved or disapproved within a period of time established by the commissioner. The commissioner shall establish guidelines for a determination of the scale or extent of a revision request for which all permit application information requirements and procedures, including notice and hearings, apply. Any revisions that propose significant alterations in the reclamation plan shall, at a minimum, be subject to notice and hearing requirements.

(3) Any extensions to the area covered by the permit except incidental boundary revisions must be made by application for another permit.

(b) No transfer, assignment, or sale of the rights granted under any permit issued pursuant to this part shall be made without the commissioner's written approval.

(c) In addition to any other review required by federal law or regulations, the commissioner shall, within a time limit prescribed in rules promulgated by the commissioner, review outstanding surface coal mining and reclamation operation permits. The commissioner may require reasonable revision or modification of the permit provisions during the term of the permit; provided,

that the revision or modification is based upon a written finding and subject to notice and hearing requirements established by the commissioner.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-114. Inspections of surface coal mining and reclamation operations — Monitoring data collection and analysis.

(a) The commissioner shall make inspections of any surface coal mining and reclamation operation that are necessary to determine whether the operation is in compliance with this part, and all rules promulgated and permits issued pursuant to this part, and has a right of entry to, upon, or through any surface coal mining and reclamation operation in order to conduct the inspections.

(b) For the purposes of administering and enforcing any permit under this part, adequately developing a regulatory program, or determining whether any person is in violation of any requirement of this part or any other requirement of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.):

(1) The commissioner shall require any permittee to:

(A) Establish and maintain appropriate records;

(B) Make monthly reports to the commissioner;

(C) Install, use, and maintain any necessary monitoring equipment or methods;

(D) Evaluate results in accordance with the methods, at such locations, intervals, and manner that the commissioner prescribes; and

(E) Provide other information relative to surface coal mining and reclamation operations that the commissioner deems reasonable and necessary.

(2) For surface coal mining and reclamation operations that remove or disturb strata serving as aquifers, which significantly ensure the hydrologic balance of water use, either on or off the mining site, the commissioner shall specify those:

(A) Monitoring sites to record the quantity and quality of surface drainage above and below the mine site as well as in the potential zone of influence;

(B) Monitoring sites to record level, amount, and samples of groundwater and aquifers potentially affected by the mining and also directly below the lowermost (deepest) coal seam to be mined;

(C) Records of well logs and borehole data to be maintained; and

(D) Monitoring sites to record precipitation.

(c) The monitoring data collection and analysis required by this section shall be conducted according to standards and procedures set forth by the commissioner to assure their reliability and validity.

(d) The authorized representatives of the commissioner, without advance notice, and upon presentation of appropriate credentials:

(1) Have the right of entry to, upon, or through any surface coal mining and reclamation operation or any premises in which any records required to be maintained under subsection (b) are located; and

(2) May, at reasonable times, and without delay, have access to and copy any records and inspect any monitoring equipment or method of operation required under this part.

(e) The commissioner's inspections shall:

(1) Occur on an irregular basis, averaging not less than one (1) partial inspection per month and one (1) complete inspection per calendar quarter for the surface coal mining and reclamation operation covered by each permit;

(2) Occur without prior notice to the permittee or the permittee's agents or employees, except as necessary for on-site meetings with the permittee; and

(3) Include the filing of inspection reports adequate to enforce the requirements of, and to carry out the terms and purposes of, this part.

(f) Each permittee shall conspicuously maintain at the entrances to each surface coal mining and reclamation operation, a clearly visible sign that states the name, business address, and telephone number of the permittee and the permit number of the surface coal mining and reclamation operation.

(g) If an inspector detects a violation of this part, the inspector shall immediately inform the operator in writing and make a written report of the violation to the commissioner.

(h) The commissioner shall make copies of any records, reports, inspection materials, or information obtained under this part immediately available to the public at central and sufficient locations in the county, multicounty, and state area of mining so that they are conveniently available to residents in the areas of mining.

(i)(1) Any person who is or may be adversely affected by a surface mining operation may notify the commissioner or any representative of the commissioner responsible for conducting the inspection, in writing, of any violation of this part which the person has reason to believe exists at the surface mining site. The commissioner shall, by rule, establish procedures for informal review of any refusal by a representative of the commissioner to issue a citation with respect to any such alleged violation. The commissioner shall furnish such persons requesting the review a written statement of the reasons for the commissioner's final disposition of the case.

(2) The commissioner shall also, by rule, establish procedures to ensure that adequate and complete inspections are made. Any such person may notify the commissioner of any failure to make such inspections, after which the commissioner shall determine whether adequate and complete inspections have been made. The commissioner shall furnish such persons a written statement of the reasons for the commissioner's determination that adequate and complete inspections have or have not been conducted.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

**59-8-115. Request for release of all or part of performance bond or deposit.**

(a) A permittee may file with the commissioner a request for the release of all or part of a performance bond or deposit.

(b)(1) Within thirty (30) days after an application for bond or deposit release has been initiated and filed with the commissioner, the permittee shall submit a copy of an advertisement placed at least once a week for four (4) successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation. The advertisement is considered part of any bond release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit number and the date that the permit was approved, the amount of the bond filed and the portion of the bond sought to be released, the type and appropriate dates of reclamation work performed, and a description of the results achieved as the results relate to the operator's approved plan.

(2) In addition, as part of any bond release application, the bond release applicant shall submit copies of letters that the bond release applicant has sent to adjoining landowners, local government bodies, planning agencies, and sewage and water treatment authorities, or water companies in the locality in which the surface coal mining and reclamation activities took place, notifying them of the bond release applicant's intention to seek release from the bond.

(c) Upon receipt of any notification and request under this section, the commissioner shall, within thirty (30) days, inspect and evaluate the reclamation work involved. The evaluation shall consider, but not be limited to, the degree of difficulty to complete any remaining reclamation, whether pollution of surface or subsurface water is occurring, the probability of continuation of the pollution, and the estimated cost of abating the pollution. The commissioner shall notify the permittee in writing of the commissioner's decision to release or not to release all or part of the performance bond or deposit within sixty (60) days from the filing of the request, if no public hearing is held pursuant to subsection (h), and if a public hearing is held pursuant to subsection (h), within thirty (30) days after the hearing date.

(d) The commissioner may release all or part of the bond or deposit when the commissioner is satisfied that the reclamation covered by the bond or deposit, or portion of the bond or deposit, has been accomplished as required by this part according to the following schedule:

(1) When the operator completes the backfilling, regrading, and drainage control of a bonded area in accordance with the operator's approved reclamation plan up to sixty percent (60%) of the bond or deposit for the applicable permit area may be released but the amount of the unreleased portion of the bond or deposit shall not be less than the amount necessary to assure completion of the reclamation work by a third party in the event of default by the operator;

(2) After revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan, the commissioner, when determining the amount of bond to be released after successful revegetation

has been established, shall retain that amount of bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation and for the period specified for operator responsibility in § 59-8-110 of reestablishing revegetation. No part of the bond or deposit shall be released under this subdivision (d)(2) so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by § 59-8-110(b)(10), or until soil productivity for prime farmlands has returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to § 59-8-106. Where an impoundment, including but not limited to a silt dam, is to be retained permanently pursuant to § 59-8-110(b)(8), the portion of bond may be released under this subdivision (d)(2) so long as provisions for sound future maintenance by the operator or the landowner have been made with the commissioner;

(3) When the operator has completed successfully all surface coal mining and reclamation activities, the remaining portion of the bond or other collateral may be released, but not before the expiration of the period specified for operator responsibility in § 59-8-110. No bond shall be fully released until all reclamation requirements of this part are fully met.

(e) The permittee shall not be denied access to the mining site for the purposes of completing or maintaining reclamation work because of the expiration of the permittee's lease, until the permittee's entire performance bond has been released.

(f) If the commissioner disapproves the application for release of all or part of the bond, the commissioner shall notify the permittee in writing, stating the reasons for disapproval and recommending specific corrective actions necessary to secure the release, and allowing opportunity for a public hearing.

(g) When any application for total or partial bond release is filed with the commissioner, the commissioner shall notify the municipality in which the surface coal mining and reclamation operation is located by certified mail at least thirty (30) days prior to the release of all or a portion of the bond.

(h) Any person with a valid legal interest, which might be adversely affected by release of all or a portion of the bond, or the responsible officer or head of any federal, state, or local governmental agency that has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation, or is authorized to develop and enforce environmental standards with respect to such operations, has the right to file written objections to the proposed release from bond or deposit to the commissioner within thirty (30) days after the last publication of the newspaper notice provided for in subsection (b). If one (1) or more written objections to a release of bond or deposit is filed, and a hearing requested, the commissioner shall inform all the interested parties of the time and place of the hearing, and hold a public hearing in the locality of the surface coal mining operation proposed for bond release, or at the state capitol, at the option of the objector, within thirty (30) days of the request for a hearing. The commissioner shall advertise the date, time, and location of the public hearing in a newspaper of general circulation in the locality for two (2) consecutive weeks.

(i) Without prejudice to the rights of the objectors or the bond release applicant, or the responsibilities of the commissioner, the commissioner may convene an informal conference as provided for in § 59-8-112 to resolve written objections.

(j) For the purpose of the hearing, the commissioner is authorized to administer oaths, subpoena witnesses or written or printed materials, compel the attendance of witnesses or production of the materials, and take evidence, including, but not limited to, inspections of the land affected and other surface coal mining operations carried on by the bond release applicant in the general vicinity. A verbatim record of each public hearing required by this part shall be made, and a transcript made available on the motion of any party or by order of the commissioner.

(k) The bond release applicant or a person with a valid legal interest, which might be adversely affected by release of all or a portion of the bond, aggrieved by a determination of the commissioner under this section may petition the commissioner for a hearing. The hearing shall be conducted as a contested case under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, except to the extent that this part or rules promulgated by the commissioner pursuant to this part are inconsistent, in which case this part or the rules promulgated by the commissioner apply.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-116. Inspection of surface coal mining operation at which alleged violation is occurring — Notice of violation — Abatement of violation — Cessation order — Suspension or revocation of permit.

(a) When, on the basis of any information available, including receipt of information from any person, the commissioner has reason to believe that any person is in violation of this part, any rule or order issued or promulgated under this part or any condition of a permit required by this part, the commissioner shall immediately order inspection of the surface coal mining operation at which the alleged violation is occurring unless the information available is a result of a previous inspection of the surface coal mining operation. When the inspection results from information provided to the commissioner by any person who is not an employee of the department, the commissioner shall notify the person when the inspection is proposed to be carried out and the person shall be allowed to accompany the inspector during the inspection.

(b)(1) If, on the basis of an inspection, the commissioner determines that any permittee is in violation of this part, any rule promulgated under this part, or any permit condition required by this part, but that violation does not create an imminent danger to the health or safety of the public or cannot be reasonably expected to cause significant imminent environmental harm to land, air, or water resources, the commissioner shall issue a notice of violation to the permittee fixing a reasonable time, but not more than ninety (90) days, for the abatement of the violation, and if deemed necessary by the

commissioner, ordering an immediate cessation of activities violating or resulting in the violation of this part, the rules promulgated under this part, or any condition of a permit.

(2) The commissioner may promulgate rules that allow for reasonable extensions for abatement or for accomplishment of an interim step in the manner provided by regulations promulgated by the secretary; however, when the abatement time permitted is in excess of ninety (90) days, interim abatement measures shall be imposed to the extent necessary to minimize harm to the public or the environment.

(3)(A) If, upon expiration of the period of time as originally fixed or subsequently extended, for good cause shown and upon the written finding of the commissioner, the commissioner finds that the violation has not been abated, the commissioner shall immediately order a cessation of surface coal mining and reclamation operations or the portion of the operations relevant to the violation.

(B) A cessation order remains in effect until the commissioner determines that the violation has been abated, or until modified, vacated, or terminated by the commissioner under subsection (d).

(C) In the cessation order issued under this subsection (b), the commissioner shall determine the steps necessary to abate the violation in the most expeditious manner possible and shall include the necessary measures in the cessation order.

(c)(1) If, on the basis of any inspection, the commissioner determines that any condition or practice exists, or that any permittee is in violation of this part, any rule promulgated under this part, or any permit condition required by this part, which condition, practice, or violation also creates an imminent danger to the health and safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the commissioner shall immediately order a cessation of surface coal mining and reclamation operations or the portion of the operations relevant to the condition, practice, or violation. The cessation order shall remain in effect until the commissioner determines that the condition, practice, or violation has been abated, or until modified, vacated, or terminated by the commissioner under subsection (d). If the commissioner finds that the ordered cessation of surface coal mining and reclamation operations, or any portion of operations, will not completely abate the imminent danger to the health and safety of the public or the significant, imminent environmental harm to land, air, or water resources, then the commissioner shall, in addition to the cessation order, impose affirmative obligations on the operator requiring the operator to take whatever steps the commissioner deems necessary to abate the imminent danger or the significant environmental harm.

(2) The commissioner shall also issue an immediate cessation order to any operator mining without a valid permit or mining an area not covered by a valid permit.

(d)(1) When, based upon an inspection, the commissioner finds that a pattern of violations of this part, rules promulgated pursuant to this part, or any permit conditions required by this part exists or has existed, and if the

commissioner also finds that such violations are caused by an unwarranted failure of the permittee to comply with this part, rules promulgated pursuant to this part, or any condition of a permit, or that such violations are willfully caused by the permittee, the commissioner shall issue an order to the permittee to show cause as to why the permit should not be suspended or revoked and shall provide an opportunity for a public hearing. If the permittee fails to show cause as to why the permit should not be suspended or revoked, the commissioner shall suspend or revoke the permit. If the permittee files an answer to the show cause order and requests a hearing, the commissioner shall inform all interested parties of the time, place, and date of the hearing. A written or electronic record shall be kept of any show cause hearing by the commissioner and the hearing shall be conducted as a contested case under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, except to the extent that this part or rules promulgated by the commissioner pursuant to this part are inconsistent, in which case this part or the rules promulgated by the commissioner apply. Within sixty (60) days following a show cause hearing, the commissioner shall issue and furnish to the permittee and all other parties to the hearing a written decision, and the commissioner's findings, concerning suspension or revocation of the permit.

(2) If the permit is revoked, then mining shall immediately cease and reclamation shall be completed within a period specified by the commissioner, or the commissioner shall declare as forfeited the performance bonds for the operation.

(e)(1) Notices and orders issued pursuant to this section shall set forth with reasonable specificity:

(A) The nature of the violation;

(B) The remedial action required;

(C) The period of time established for abatement; and

(D) A reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies.

(2) The commissioner shall promptly deliver each notice or order issued under this section to the permittee or the permittee's agent.

(3) All notices and orders shall be in writing and shall be signed by the commissioner.

(4) The commissioner may modify, vacate, or terminate any notice or order issued pursuant to this section.

(5) Any notice or order issued pursuant to this section, which requires cessation of active mining, expires within thirty (30) days of actual notice to the operator unless a public hearing is held at the site or within a reasonable proximity to the site where any viewings of the site can be conducted during the course of the public hearing; however, the notice or order shall not expire if the operator waives the hearing. The granting or waiver of a public hearing held under this subdivision (e)(5) does not affect the right of any person to formal review under subsection (d), § 59-8-117, or § 59-8-120.

(f) Nothing in this section eliminates any additional enforcement rights or procedures that are available under state law to a state agency but are not specifically enumerated in this section.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-117. Civil penalties, fines, and imprisonment.

(a) Any permittee who violates this part, rules promulgated pursuant to this part, or any permit condition required by this part, may be assessed a civil penalty by the commissioner, except that if the violation leads to the issuance of a cessation order, a civil penalty shall be assessed. A civil penalty assessed under this subsection (a) shall not exceed five thousand dollars ($5,000) for each violation. Each day of a continuing violation may be deemed a separate violation for purposes of assessing a civil penalty. In determining the amount of the penalty, the commissioner shall consider the history of previous violations by the permittee at the particular surface coal mining operation; the seriousness of the violation, including any irreparable harm to the environment and any danger to the health or safety of the public; whether the permittee was negligent; and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation.

(b)(1) A civil penalty shall be assessed by the commissioner only after the person charged with a violation described under subsection (a) has been given notice and an opportunity for a public hearing before the commissioner, unless the public hearing is expressly waived by the person charged.

(2) When a public hearing has been held, the commissioner shall make findings of fact, and the commissioner shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(3) When appropriate, a public hearing held pursuant to this section shall be consolidated with other proceedings under § 59-8-116. Any hearing under this subsection (b) shall be of record and conducted as a contested case under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, except to the extent that this part or rules promulgated by the commissioner pursuant to this part are inconsistent, in which case this part or the rules promulgated by the commissioner apply.

(4) If the person charged with a violation waives the public hearing, then the commissioner shall issue an order requiring that the penalty be paid after determining that a violation did occur and the amount of the penalty which is warranted.

(c) Within thirty (30) days of issuing a notice or order, the commissioner shall inform the person charged with the penalty of the proposed amount of the penalty. The person charged with the penalty shall then have thirty (30) days to pay the proposed penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, forward the proposed amount to the commissioner for placement in an escrow account. If, through administrative or judicial review of the proposed penalty, it is determined that no violation occurred or that the amount of the penalty should be reduced, the commissioner shall, within thirty (30) days of the determination, remit the applicable escrowed amount to the person with interest at the rate of six

percent (6%) per annum, or at the prevailing department of treasury rate, whichever is greater. Failure to forward the money to the commissioner within thirty (30) days results in a waiver of all legal rights to contest the violation or the amount of the penalty.

(d) The commissioner, through the attorney general and reporter, may institute proceedings in the name of the department for the recovery of any assessment or penalty made under this part in any appropriate court. All sums recovered shall be placed in the state treasury and credited to the coal mining protection fund, created by § 59-8-132.

(e) Any person who willfully and knowingly violates this part, rules promulgated pursuant to this part, or any condition of a permit or order issued pursuant to this part, except an order incorporated in a decision issued under subsection (b) or § 59-8-131, commits a Class E felony and, upon conviction, shall be punished by a fine of not more than ten thousand dollars ($10,000), or incarceration, or both.

(f) Any person who knowingly makes any false statement, representation, or certification, or who knowingly fails to make any statement, representation, or certification, in any application, record, report, plan, or document filed or required to be maintained by this part, rules promulgated under this part, or any permit, order, or decision issued by the commissioner, commits a Class E felony and, upon conviction, shall be punished by a fine of not more than ten thousand dollars ($10,000), or incarceration, or both.

(g) Any person who knowingly violates the conflict of interest provisions of § 59-8-127 commits a Class E felony and, upon conviction, shall be punished by a fine of not more than two thousand five hundred dollars ($2,500), or incarceration, or both.

(h) Any person who knowingly engages in surface coal mining and reclamation operations without first obtaining a permit for the mine from the commissioner, commits a Class E felony, and upon conviction, shall be punished by a fine of not more than ten thousand dollars ($10,000), or incarceration, or both.

(i) Any person who, except as permitted by law, willfully resists, prevents, impedes, or interferes with the commissioner or the commissioner's agents from performing the commissioner's or agent's duty under this part commits a Class E felony, and upon conviction, shall be punished by a fine of not more than ten thousand dollars ($10,000), or incarceration, or both.

(j) Whenever a corporate permittee commits the violations enumerated in subsections (a) and (e), any director, officer, or agent of the corporation who willfully and knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed under subsections (a) and (e). The commissioner shall promulgate rules establishing the procedure provided by 30 CFR part 846 for assessing individual civil penalties under this subsection (j).

(k)(1) The period for correcting a violation for which a citation has been issued under § 59-8-116 does not end until:

(A) The entry of a final order by the commissioner, in the case of any review proceedings under § 59-8-120 initiated by the person wherein the

commissioner orders, after an expedited hearing, the suspension of the abatement requirements of the citation after determining that the person will suffer irreparable loss or damage from the application of those requirements; or

(B) The entry of an order of the court, in the case of any review proceedings under § 59-8-121 initiated by the person wherein the court orders the suspension of the abatement requirements of the citation.

(2) Any person who fails to correct a violation for which a citation has been issued under § 59-8-116 within the period permitted for its correction shall be assessed a civil penalty of not less than seven hundred fifty dollars ($750) for each day during which the failure to correct or violation continues.

(*l*) Nothing in this section eliminates any additional enforcement right or procedures which are available under state law to a state agency but are not specifically enumerated in this section.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-118. Civil action for relief.

(a) The commissioner may request the attorney general and reporter to institute a civil action for relief against any permittee including a permanent or temporary injunction, restraining order, or any other appropriate order, and venue and jurisdiction for the action shall be in the chancery court in the county where the surface mining operation is located or in which the permittee has its principal office, whenever the permittee or the permittee's agent:

(1) Violates or fails or refuses to comply with any order or decision issued by the commissioner under this part;

(2) Interferes with, hinders, or delays the commissioner in carrying out the provisions of this part;

(3) Refuses to admit the commissioner to a surface coal mining and reclamation operation;

(4) Refuses to permit inspection of a surface coal mining and reclamation operation by the commissioner;

(5) Refuses to furnish any information or report requested by the commissioner in furtherance of this part;

(6) Refuses to permit access to, and copying of, records that the commissioner determines to be necessary in carrying out this part; or

(7) Violates or threatens to violate any other provision of this part, the rules promulgated pursuant to this part, or conditions of a permit issued pursuant to this part.

(b) The court has jurisdiction to provide any relief as may be appropriate. Any relief granted by the court to enforce an order under this subsection (b) shall continue in effect until the completion or final termination of all proceedings for review of that order under this part unless, before that time, the court granting the relief sets it aside or modifies it.

(c) Nothing in this section eliminates any additional enforcement rights or procedures that are available under state law to a state agency, but are not specifically enumerated in this section.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-119. Civil action to compel compliance.

(a) Except as provided in subsections (b) and (c), any person having an interest that is or may be adversely affected may commence a civil action to compel compliance with this part:

(1) Against the state or any other governmental instrumentality or agency, which is alleged to be in violation of this part, or any rule promulgated under this part, or order or permit issued pursuant to this part, or against any other person who is alleged to be in violation of this part, or any rule promulgated under this part, or order or permit issued pursuant to this part; or

(2) Against the commissioner when the commissioner is alleged to have failed to perform any act or duty under this part that is not discretionary with the commissioner.

(b) No action may be commenced under subdivision (a)(1):

(1) Until sixty (60) days after the plaintiff has provided written notice of the violation to the secretary, the commissioner, and any alleged violator; or

(2) If the commissioner or the state has commenced and is diligently prosecuting a civil action in a court of this state or the United States to require compliance with this part, or any rule promulgated under this part, or order or permit issued pursuant to this part, but in any such action any person may intervene as a matter of right.

(c) No action may be commenced under subdivision (a)(2) until sixty (60) days after the plaintiff has provided written notice of the violation to the commissioner, in the manner that the commissioner requires by rule, except that an action may be brought immediately after notice of the violation is provided to the commissioner, if the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(d)(1) Any action brought under this section respecting a violation of this part or the rules promulgated thereunder may be brought only in the chancery court of the county in which the greater part of the surface coal mining and reclamation operation complained of is located.

(2) The commissioner, if not a party, may intervene in any civil action brought under this section as a matter of right.

(e) The court, in issuing any final order in any action brought under subsection (a), may award costs of litigation, including reasonable attorney fees and expert witness fees, to any party, whenever the court determines the award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Tennessee Rules of Civil Procedure.

(f) Nothing in this section restricts any right that any person, or class of persons, may have under any statute or common law to seek enforcement of this part and the rules issued pursuant to it, or to seek any other relief, including relief against the commissioner.

(g) Any person who incurs a personal injury or property damage due to an operator's violation of any rule, order, or permit issued pursuant to this part

may bring an action for damages against the operator including reasonable attorney and expert witness fees, in the chancery court of the county in which the surface coal mining and reclamation operation complained of is located. Nothing in this subsection (g) affects the rights established by, or limits imposed under, the Workers' Compensation Law, compiled in title 50, chapter 6.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-120. Application for review of notice or order — Investigation and hearing — Request for temporary relief.

(a)(1)(A) A permittee issued a notice or order by the commissioner pursuant to § 59-8-116(b) or § 59-8-116(c), or any person having an interest that is or may be adversely affected by the notice or order or by any modification, vacation, or termination of the notice or order, may apply to the commissioner for review of the notice or order within thirty (30) days of receipt of the order or within thirty (30) days of its modification, vacation, or termination; provided, however, that any person not served with a copy of the document shall file the application for review within forty (40) days of the date of issuance of the document.

(B) Upon receipt of such application, the commissioner shall cause such investigation to be made as the commissioner deems appropriate. The investigation shall provide an opportunity for a public hearing, at the request of the permittee or the person having an interest that is or may be adversely affected, to enable the permittee or such person to present information relating to the issuance and continuance of such notice or order or the modification, vacation, or termination thereof.

(C) The filing of an application for review under this subsection (a) does not operate as a stay of any order or notice.

(2) The permittee and other interested persons shall be given written notice of the time and place of the hearing at least five (5) days prior to the hearing. Any such hearing shall be conducted as a contested case under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, except to the extent that this part or rules promulgated by the commissioner pursuant to this part are inconsistent, in which case this part or the rules promulgated by the commissioner apply.

(b)(1) Upon completion of the investigation, the commissioner shall make findings of fact, and shall issue a written decision, incorporating an order vacating, affirming, modifying, or terminating the notice or order, or the modification, vacation, or termination of such notice or order complained of and incorporate the commissioner's findings in the order.

(2) Where the application for review concerns an order for cessation of surface coal mining and reclamation operations issued pursuant to § 59-8-116(b) or § 59-8-116(c), the commissioner shall issue the written decision within thirty (30) days of the receipt of the application for review, unless temporary relief has been granted by the commissioner pursuant to subsection (c) or by a court pursuant to § 59-8-121(c).

(c) Pending completion of the investigation and hearing required by this section, the applicant for review may file with the commissioner a written request that the commissioner grant temporary relief from any notice or order, together with a detailed statement giving reasons for requesting the relief. The commissioner shall issue an order or decision granting or denying the relief expeditiously; provided, that, if the applicant for review requests relief from an order for cessation of coal mining and reclamation operations issued pursuant to § 59-8-116(b) or § 59-8-116(c), the order or decision on such a request shall be issued within five (5) days of its receipt. The commissioner may grant the relief requested, under the conditions the commissioner prescribes, if:

(1) All parties to the proceeding have been notified and an informal hearing has been held in the locality of the surface coal mining and reclamation operation on the request for temporary relief in which all parties were given an opportunity to be heard;

(2) The applicant for review shows that there is a substantial likelihood that the final decision of the commissioner in the hearing will be favorable to the applicant for review; and

(3) The relief will not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air, or water resources.

(d) Whenever an order is issued under this section, or as a result of any administrative proceeding under this part, at the request of any person, a sum equal to the aggregate amount of all costs and expenses, including attorney fees, as determined by the court or the commissioner to have been reasonably incurred by the person for, or in connection with, the person's participation in the proceedings, including any judicial review of agency actions, may be assessed against either party as the court, resulting from judicial review, or the commissioner, deems proper.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-121. Judicial review of final order or determination.

(a)(1) Any final order or determination by the commissioner in a contested case proceeding under this part, including a civil penalty proceeding, or as otherwise provided in this part, is subject to judicial review on or before thirty (30) days from the date of such order or decision, and venue and jurisdiction for such action shall be in Davidson County chancery court or the chancery court in the county where the surface mining operation is located. In the case of a proceeding to review an order or decision issued by the commissioner under § 59-8-117, the court shall have jurisdiction to enter an order requiring payment of any civil penalty assessment enforced by its judgment.

(2) The court shall hear such petition or complaint solely on the record made before the commissioner. The findings of the commissioner, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or

may remand the proceedings to the commissioner for such further action as it may direct.

(b) In the case of a proceeding to review any order or decision issued by the commissioner under this part, including an order or decision pertaining to any order for cessation of surface coal mining and reclamation operations, the court may, under such conditions as it may prescribe, grant any temporary relief that it deems appropriate pending a final determination of the proceedings if:

(1) All parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

(2) The person requesting relief shows that there is a substantial likelihood that that person will prevail on the merits of the final determination of the proceeding; and

(3) The relief requested will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air, or water resources.

(c) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the action, order, or decision of the commissioner.

(d) Except as provided in § 59-8-119, the availability of judicial review under this section shall not limit any rights established under § 59-8-119.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-122. Protection of interest in water resources affected by mining operation — Replacement of water supply — Repair or compensation for subsidence damage.

(a) Nothing in this part affects the right of any person to enforce or protect, under applicable law, that person's interest in water resources affected by a mining operation.

(b) The permittee or operator of a surface coal mine shall replace the water supply of an owner of an interest in real property who obtains all or part of that owner's supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source when the water supply has been affected by contamination, diminution, or interruption proximately resulting from the surface coal mine operation.

(c)(1) Underground coal mining operations conducted in this state after October 24, 1992, shall:

(A) Promptly repair, or compensate for, material damage resulting from subsidence caused to any occupied residential dwelling and structures related thereto, or noncommercial building due to underground coal mining operations. Repair of damage shall include rehabilitation, restoration, or replacement of the damaged occupied residential dwelling and structures related thereto, or noncommercial building. Compensation shall be provided to the owner of the damaged occupied residential dwelling and structures related thereto, or noncommercial building and shall be in the full amount of the diminution in value resulting from the subsidence. Compensation may be accomplished by the purchase, prior to mining, of a noncancelable premium-prepaid insurance policy; and

(B) Promptly replace any drinking, domestic, or residential water supply from a well or spring in existence prior to the application for a surface coal mining and reclamation permit that has been affected by contamination, diminution, or interruption resulting from underground coal mining operations.

(2) Nothing in this subsection (c) prohibits or interrupts underground coal mining operations.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-123. Authorized departures from environmental protection performance standards.

(a) In order to encourage advances in surface coal mining and reclamation practices, or to allow post-mining land use for industrial, commercial, residential, or public use, including recreational facilities, the commissioner, with the approval of the secretary, may authorize departures in individual cases on an experimental basis from the environmental protection performance standards promulgated under this part.

(b) The departures may be authorized if:

(1) The experimental practices are potentially more environmentally protective, or at least as protective, during and after mining operations, as those required by promulgated standards;

(2) The mining operations approved for a particular land use or other purposes are not larger or more numerous than necessary to determine the effectiveness and economic feasibility of the experimental practices; and

(3) The experimental practices do not reduce the protection afforded public health and safety below that provided by promulgated standards.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-124. Effect of part on § 66-5-102.

Nothing in this part limits or invalidates § 66-5-102.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-125. Designation of area as unsuitable for certain types of surface coal mining and reclamation operations.

(a)(1) The commissioner shall establish a planning process enabling objective decisions to be made based upon competent and scientifically sound data and information as to which, if any, land areas of this state are unsuitable for all or certain types of surface coal mining and reclamation operations pursuant to the standards set forth in this section, but that designation shall not prevent the mineral exploration of any designated area.

(2) Upon petition pursuant to subsection (b), the commissioner shall designate an area as unsuitable for all or certain types of surface coal mining

and reclamation operations if the commissioner determines that reclamation pursuant to the requirements of this part is not technologically and economically feasible.

(3) Upon petition pursuant to subsection (b), an area may be designated unsuitable for certain types of surface coal mining and reclamation operations if such operations:

(A) Are incompatible with existing state or local land use plans or programs;

(B) Affect fragile or historic lands in a way that could result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems;

(C) Affect renewable resource lands, including, but not limited to, aquifers and aquifer recharge areas, in a way that could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products; or

(D) Affect natural hazard lands, including, but not limited to, areas subject to frequent flooding and areas of unstable geology, in a way that could substantially endanger life and property.

(4) The department shall be responsible for surface coal mining lands review and shall assist the commissioner in developing a process that includes:

(A) A database and inventory system that permits proper evaluation of the capacity of different land areas of this state to support and permit reclamation of surface coal mining and reclamation operations;

(B) A method or methods for implementing land use planning decisions concerning surface coal mining and reclamation operations; and

(C) Proper notice and opportunities for public participation, including a public hearing prior to making any designation or redesignation, pursuant to this section.

(5) Determinations of the unsuitability of land for surface coal mining and reclamation operations shall be integrated as closely as possible with present and future land use planning and regulation processes at the federal, state, and local levels.

(6) This section does not apply to lands on which surface coal mining operations were being conducted on August 3, 1977, or under a permit issued pursuant to this part, or where substantial legal and financial commitments in the operation were in existence prior to January 4, 1977.

(b) Any person having an interest that is or may be adversely affected shall have the right to petition the commissioner to have an area designated as unsuitable for surface coal mining and reclamation operations, or to have an existing designation terminated. A petition filed pursuant to this subsection (b) must contain allegations of facts with supporting evidence that tends to establish the allegations. Within ten (10) months after receipt of the petition, the commissioner shall hold a public hearing in the locality of the affected area, after appropriate notice and publication of the date, time, and location of such hearing. After a petition has been filed, but before the hearing on it, any person may intervene by filing allegations of facts with supporting evidence that would tend to establish the allegations. In the event that all of the petitioners

stipulate agreement prior to the requested hearing, and withdraw their requests, the hearing need not be held.

(c) Prior to designating any land areas as unsuitable for surface coal mining and reclamation operations, the commissioner shall prepare a detailed statement on:

(1) The potential coal resources of the area;

(2) The demand for coal resources; and

(3) The impact of the designation on the environment, the economy, and the supply of coal.

(d) In reaching a decision on whether to designate any land areas as unsuitable for surface coal mining and reclamation operations, the commissioner shall use:

(1) The information contained in the database, records, and inventory system;

(2) Any information that was provided by other governmental agencies or the public; and

(3) The information contained in the detailed statement provided in subsection (c).

(e) The commissioner shall issue a final written decision, including a statement of findings, within sixty (60) days of the completion of the public hearing, or if no public hearing is held, within twelve (12) months of receipt of the complete petition. The commissioner shall simultaneously notify the petitioner, other parties to the hearing, and the regional director of the office of surface mining, of the decision by certified mail.

(f) The decision of the commissioner with respect to a petition, or the failure of the commissioner to act within the time limits set forth in this section shall be subject to judicial review in the same manner as provided for orders or determinations of the commissioner under § 59-8-121. All relevant portions of the information used in subsection (c) shall be considered and included in the record of the administrative proceeding.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-126. Promulgation of rules for persons engaging in, or directly responsible for, blasting or use of explosives in surface coal mining operations.

The commissioner shall promulgate rules to require the training, examination, and certification of persons engaging in, or directly responsible for, blasting or use of explosives in surface coal mining operations.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-127. Department employees prohibited from having financial interest in underground coal mining operation or surface coal mining and reclamation operation.

No employee of the department performing any function or duty under this

part shall have a direct or indirect financial interest in any underground coal mining operation or surface coal mining and reclamation operation. The commissioner shall promulgate rules to establish methods by which this section shall be monitored and enforced, including appropriate provisions for the filing by any employees and the review of statements and supplements to such statements concerning any financial interest which may be affected by this section.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

### 59-8-128. Effect of part on state law and authority of state agency.

(a) This part does not operate to repeal, supersede, amend, or modify any of the laws of this state relating to the pollution of the air or waters, or any environment and conservation or mining laws, or any rules promulgated pursuant to such laws, but shall be held and construed as ancillary and supplemental thereto. Such laws include, but are not limited to:

(1) The Tennessee Air Quality Act, compiled in §§ 68-201-101 – 68-201-121;

(2) The Tennessee Solid Waste Disposal Act, compiled in §§ 68-211-101 – 68-211-124;

(3) The Water Quality Control Act of 1977, compiled in §§ 69-3-101 – 69-3-148; and

(4) Chapters 1 and 4 of this title.

(b) Nothing in this part affects the authority of any agency of this state under other provisions of law to include in any lease, license, permit, contract, or other instrument such conditions as may be appropriate to regulate surface coal mining and reclamation operations on land under their jurisdiction.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

### 59-8-129. Immediate conformance with statutes and rules — Federal permittees.

(a) Except as provided in subsection (b), irrespective of the date of issuance of a permit, all permittees shall immediately conform to any statutes enacted relative to surface coal mining and reclamation operations in this state, or rules adopted pursuant to those statutes, on the effective date of such statutes and rules.

(b) Permits issued pursuant to the federal program shall be valid under this part; provided, the federal permittee shall have the right to apply for a permit under this part to supersede the permit issued pursuant to the federal program. The commissioner may review such permits to determine that the requirements of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.) and this part and rules promulgated pursuant to this part are not violated. Should this part or rules promulgated pursuant to this part contain additional requirements not contained in the federal program, the permittee will be provided opportunity for hearing and a reasonable time, within a time limit prescribed in rules promulgated by the commissioner, to

conform ongoing surface mining and reclamation operations to the additional state requirements.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-130. Compliance with part by governmental entity.

Any agency, unit, or instrumentality of state, federal, or local government, including any publicly owned utility or publicly owned corporation of state, federal, or local government, that proposes to engage in exploration or mining operations that are subject to this part, shall comply with this part.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-131. Prohibited discharge or discrimination of employee or representative of employees.

(a) No person shall discharge, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this part or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this part.

(b)(1) Any employee or a representative of employees who believes that the employee has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty (30) days after such alleged violation occurs, apply to the commissioner for a review of such firing or alleged discrimination. A copy of the application shall be sent to the person or operator who will be the respondent.

(2) Upon receipt of such application, the commissioner shall cause such investigation to be made as the commissioner deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to the alleged violation. The parties shall be given written notice of the time and place of the hearing at least five (5) days prior to the hearing. Any such hearing shall be a contested case conducted pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, except to the extent that this part or rules promulgated by the commissioner pursuant to this part are inconsistent, in which case this part or the rules promulgated by the commissioner apply.

(3) Upon receiving the report of such investigation, the commissioner shall make findings of fact. If the commissioner finds that a violation did occur, the commissioner shall issue a decision incorporating the commissioner's findings and an order requiring the party committing the violation to take such affirmative action to abate the violation as the commissioner deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to such person's former position with compensation. If the commissioner finds that there was no

violation, the commissioner shall issue a finding.

(4) Orders issued by the commissioner under this subsection (b) shall be subject to judicial review in the same manner as provided for orders or determinations of the commissioner under § 59-8-121.

(c) Whenever an order is issued under this section to abate any violation, at the request of the employee or representative applicant a sum equal to the aggregate amount of all costs and expenses, including attorney fees, to have been reasonably incurred by the employee or representative applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the persons committing the violation.

**History.**
Acts 2021, ch. 548, § 3.

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-132. Coal mining protection fund.

(a) There is created a segregated account within the state treasury to be known as the "coal mining protection fund."

(b) The fund shall be administered by the commissioner. Unless otherwise provided by this part, all fees, penalties, bond forfeitures and damages collected by the commissioner pursuant to this part and monies received as provided in § 67-7-110, shall be deposited by the state treasurer into the coal mining protection fund, created in subsection (a), and shall be used by the commissioner to defray expenses necessary to administer this part including administration and enforcement of the requirements of this part; provided, however, that:

(1) Penalties shall be segregated in a separate account in the fund to be expended by the commissioner primarily for activities supporting the reclamation of land and water adversely affected by surface coal mining and exploration activities after August 3, 1977, and for conducting and obtaining investigations, research, experiments, training programs, and demonstrations; and collecting and disseminating information relating to exploration, surface mining, reclamation of disturbed lands, and control of pollution of water and soil affected by exploration and surface mining for coal; and

(2) Bond forfeitures shall be segregated in a separate account in the fund and shall be available to the commissioner for expenditure for the reclamation of land and water adversely affected by surface coal mining and exploration activities after August 3, 1977; provided, that the proceeds from the forfeiture of any bond shall first be used to the extent required in completing reclamation of the area with respect to which the bond was posted.

(c) Moneys in the fund shall be invested by the state treasurer for the benefit of the fund pursuant to § 9-4-603. Unexpended and unobligated funds remaining in the fund at the end of any fiscal year shall not revert to the general fund but shall remain available for the purposes set forth in this part. Interest accruing on investments and deposits of the fund shall be returned to the fund and remain a part of the fund.

**History.**

Acts 2018, ch. 839, § 1; 2021, ch. 548, § 3.

**Amendments.**

The 2021 amendment rewrote this section which read, "(a) There is created a segregated account within the state treasury to be known as the 'coal mining protection fund.' Monies shall be deposited to the fund pursuant to §§ 59-8-107, 59-8-117, and 67-7-110, and shall be invested for the benefit of the fund pursuant to § 9-4-603.

"(b) The moneys in the coal mining protection fund shall be used for the administration and enforcement of the requirements of this part.

"(c) All fees and penalties collected by the commissioner pursuant to this part shall be deposited by the state treasurer into the coal mining protection fund, created in subsection (a), and shall be used by the commissioner to defray expenses necessary to administer this part. Unexpended and unobligated fees remaining in this account at the end of any fiscal year shall not revert to the general fund but shall remain available for the purposes set forth in this part."

**Effective Dates.**

Acts 2021, ch. 548, § 17. May 26, 2021.

# PART 2

# TENNESSEE MINERAL SURFACE MINING LAW OF 1972

## 59-8-202. Definitions.

Except as otherwise required by the context, the following terms when used in this part or in regulations issued thereunder shall be construed to mean:

(1) "Area affected" means the area of land from which overburden is to be or has been removed and upon which a spoil bank is to be or has been deposited. It also includes areas of land on which haul roads or other access roads (other than public roads) are to be or have been located. Insofar as clay is concerned, affected land shall not be construed to include land upon which overburden is deposited if, in the opinion of the commissioner, the deposition of such overburden amounts to reclamation of a previously mined area;

(2) "Bench" means the ledge, shelf or terrace formed in the contour method of surface mining;

(A) "Fill bench" means that portion of the bench which is formed by depositing overburden beyond the cut section; and

(B) "Solid bench" means the portion of the bench between the highwall and the fill bench and thereby within the region once occupied by the mineral or overburden;

(3) "Board" means the Tennessee board of water quality, oil, and gas, established by § 69-3-104;

(4) "Commissioner" means the commissioner of environment and conservation or the commissioner's designees;

(5) "Director" means the director of the division of water pollution control;

(6) "Highwall" means a slope in excess of thirty-five degrees (35°) which is created by mining operations;

(7)(A) "Mineral" means, in any county having a population of more than six hundred thousand (600,000), according to the 1970 federal census or any subsequent federal census, clay, stone, gravel, sand, phosphate rock, metallic ore and any other solid material or substance of commercial value found in natural deposits on or in the earth, but does not include limestone, coal, marble, chert or dimension stone;

(B) "Mineral" means, in any county having a population of six hundred thousand (600,000) or less, according to the 1970 federal census or any subsequent federal census, clay, stone, phosphate rock, metallic ore, and any other solid material or substance of commercial value found in natural

deposits on or in the earth, but does not include limestone, coal, marble, chert, gravel, sand or dimension stone;

(C) "Mineral" means, on any land on which the state, or any department, agency, or other unit of state government, owns the surface interest, clay, stone, gravel, sand, phosphate rock, metallic ore, and any other solid material or substance of commercial value found in natural deposits on or in the earth, but does not include coal;

(8) "Operation" means all of the premises, facilities, and equipment and the use thereof in the process of removing and exploring for minerals from a designated surface mine area;

(9) "Operator" means any person, partnership or corporation engaged in surface mining who removes or intends to remove more than two hundred fifty (250) tons of any mineral from the earth by surface mining within twelve (12) successive calendar months; or who removes overburden for the purpose of determining the location, quality or quantity of any natural mineral deposit. Any operator who has obtained a permit, and otherwise complied with this part may subcontract any part, or all, of the mining of the lands covered by the permit to subcontractors and such subcontractors are not considered an "operator" within the meaning of this part;

(10) "Orphan mine" means land affected by surface mining operations prior to enactment of the Tennessee Strip Mine Law of 1967 (repealed);

(11) "Overburden" means all earth and other materials which are removed to gain access to the mineral in the process of surface mining;

(12) "Person" means an individual, partnership, corporation or any other association of individuals;

(13) "Provisions of this part" means the rules, regulations and orders issued by the commissioner pursuant to this part as well as the words of the sections themselves;

(14) "Reclamation" means the process of backfilling, grading and shaping of the disturbed land in the affected area, constructing water control facilities, the taking of measures to control current or future air, water or soil pollution, and the planting of vegetation, and other measures; all directed toward placing the affected area in a condition whereby it can serve some purpose, at least as useful as that in existence before any mining;

(15) "Shaping" means grading, backfilling and other earth moving required by this part to be done by the operator in connection with the reclamation of the area affected;

(16) "Spoil bank" means the overburden as it is piled or deposited in the process of surface mining;

(17) "Stream" means any waterway that normally exhibits water flow at least six (6) consecutive months per year; and

(18) "Surface mining" means all or any part of the process followed in the production of minerals from a natural mineral deposit by the open pit or open cut method, auger method, highwall mining method which requires a new cut or removal of overburden, or any other mining process in which the strata or overburden is removed or displaced in order to recover the mineral; or in which the surface soil is disturbed or removed for the purpose of determining the location, quality or quantity of a natural mineral deposit.

**History.**
Acts 1972, ch. 547, § 2; 1974, ch. 590, § 2; 1975, ch. 188, § 1; 1975, ch. 310, § 1; 1976, ch. 752, § 1; 1978, ch. 679, § 3; T.C.A., § 58-1541; Acts 1980, ch. 695, § 1; 1980, ch. 908, § 38; 1981, ch. 406, §§ 1, 2; 1988, ch. 1004, § 1; 1992, ch. 693, § 1; 2009, ch. 211, § 1; 2011, ch. 341, §§ 1, 2; 2018, ch. 839, § 5.

**Compiler's Notes.**
Acts 2021, ch. 548, § 1 repealed act sections 1-43 of chapter 839 of the Public Acts of 2018. That act had provided for the contingent amendment of this section; however, that amendment did not take effect.

### 59-8-212. Tennessee surface mine reclamation fund — Other available funds.

All sums received through the payment of fees or the forfeiture of bonds shall be placed in the state treasury and credited to a special agency account to be designated as the Tennessee surface mine reclamation fund. This fund, appropriations for which are also authorized, shall be available to the commissioner for expenditure for the reclamation and revegetation of land affected by surface mining operations, including lands so affected prior to enactment of this part; provided, that the proceeds from the forfeiture of any bond shall be used to the extent required in completing reclamation and revegetation of the area with respect to which the bond was posted. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purpose of reclamation and revegetation of land as provided in this section until expended.

**History.**
Acts 1972, ch. 547, § 12; 1974, ch. 590, § 1; T.C.A., § 58-1551; Acts 1980, ch. 908, § 45.

**Compiler's Notes.**
Acts 2021, ch. 548, § 1 repealed act sections 1-43 of chapter 839 of the Public Acts of 2018. That act had provided for the contingent amendment of this section; however, that amendment did not take effect.

## PART 3

## TENNESSEE COAL SURFACE MINING LAW OF 1980

### 59-8-302. Liens.

(a) Whenever the commissioner begins to expend money on a project to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned property under § 59-8-301(f), the commissioner may file a notice with the office of the register of deeds of the county in which the property lies.

(b)(1) Within six (6) months after the completion of projects to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned property under § 59-8-301(f), the commissioner shall itemize the moneys so expended and shall file a statement thereof in the office of the register of deeds of the county in which the property lies, together with notarized appraisals by an independent appraiser of the value of the property before and after the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining practices, if the moneys so expended shall result in a significant increase in property value.

Such statement shall constitute a lien upon such land. The lien shall not exceed the amount determined by the appraisal to be the increase in the market value of the property as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. No lien shall be filed against the property of any person, in accordance with this subsection (b), who owned the surface prior to May 2, 1977, and who neither consented to nor participated in, nor exercised control over, the mining operation which necessitated the reclamation performed hereunder.

(2) In the year following the year in which the lien is filed in the designated county office and for each year thereafter until the lien is fully satisfied, the designees of the commissioner shall calculate an annual interest charge of five percent (5%) against the outstanding value of each lien, and shall maintain a record of the charges owing against such lien which shall be made available to the property owner upon request. This interest charge may be allowed to accrue but must be paid in full before the lien shall be considered fully satisfied and shall be released.

(c) The property owner may proceed as provided by law to petition within sixty (60) days of the filing of the lien, to determine the increase in the market value of the property as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. The amount appraised to be the increase in value of the property shall constitute the amount of the lien, and shall be recorded with the statement herein provided. Any party aggrieved by the decision may appeal as provided by state law.

(d) The lien provided in this section shall be entered in the records of the register of deeds of the county in which the property lies. Such statements shall constitute a lien upon such property as of the date notice is filed pursuant to subsection (a), and shall have priority from the day of such filing of notice, but shall not affect, or have priority over, any valid lien, right, or interest in the property duly recorded, or duly perfected by filing, prior to the filing of the notice and shall not have priority over any real estate tax liens, whether attaching on the property before or after the filing of the notice. A lien on private property, and the accrued interest charges placed thereon, shall be satisfied to the extent of the value of the consideration received at the time of transfer of ownership, any other statute to the contrary notwithstanding.

(e)(1) A form of notice substantially as follows is sufficient to comply with subsection (a):

NOTICE OF LIEN UNDER TITLE 59, CHAPTER 8, PART 3

Name of titleholder(s) .....

Property address .....

Description of property subject to possible lien sufficient to identify such property .....

Date, signature, and address of the commissioner or the commissioner's authorized designee .....

(2) The register of deeds shall note the date and time of filing, and an appropriate registration number, and shall record the notice in the lien book in the office of the register.

(f) The effective date of all prior liens claimed under this chapter shall be unaffected by the 1986 amendment to this section if a notice is filed in accordance with subsection (a) on or before December 31, 1986, which notice shall set forth, in addition to the information required by subsection (e), the claimed effective date of the lien if earlier than the date of the filing of the notice. After December 31, 1986, all claimed liens shall be effective as of the date the notice is filed pursuant to subsection (a).

**History.**
Acts 1980, ch. 908, § 25; 1983, ch. 147, §§ 1, 2; 1984, ch. 837, § 4; 1986, ch. 529, § 1; 1988, ch. 549, § 1; T.C.A. § 59-8-325; Acts 2021, ch. 548, §§ 4, 5.

**Amendments.**
The 2021 amendment in (e), substituted "TITLE 59, CHAPTER 8, PART 3" for "TENNESSEE COAL SURFACE MINING LAW OF 1980".

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-304. Part definitions.

As used in this part unless the context otherwise requires:

(1) [Deleted by 2021 amendment.]

(2) "Commissioner" means the commissioner of environment and conservation, the commissioner of environment and conservation's duly authorized representatives, and in the event of absence or a vacancy in the office of commissioner, the deputy commissioner; and

(3) "Department" means the department of environment and conservation.

(4) [Deleted by 2021 amendment.]

**History.**
Acts 1984, ch. 837, § 6; 1987, ch. 251, § 3; 1992, ch. 693, § 1; T.C.A § 59-8-351; Acts 2018, ch. 839, § 6; 2021, ch. 548, §§ 6, 7.

**Compiler's Notes.**
Acts 2021, ch. 548, § 1 repealed act sections 1-43 of chapter 839 of the Public Acts of 2018. That act had provided for the contingent amendment of this section; however, that amendment did not take effect.

**Amendments.**
The 2021 amendment substituted "in this part" for "in §§ 59-8-304 - 59-8-309" in the introductory language and deleted subdivisions (1) and (4) which read: "(1) 'Board' means the Tennessee board of energy and natural resources created by § 69-3-104;" and "(4) 'Director' means the director of the division of water pollution control in the department of environment and conservation."

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-305. Violations — Penalties.

(a) Any person who willfully and knowingly does any of the following acts is guilty of a Class E felony and, upon conviction, shall be punished by a fine of not more than ten thousand dollars ($10,000):

(1) [Deleted by 2021 amendment.]

(2) Knowingly and willfully violates this chapter, or the rules and regulations or orders of the commissioner, or knowingly falsifies an application for a permit; or

(3) Prevents or impedes an employee of the state from performing the employee's duty under this part, except as permitted by law.

(b) Whenever a corporation commits the acts described in this section, the director, officer or agent of such corporation who willfully and knowingly authorized, ordered or carried out such violation, failure or refusal shall be subject to the same fines and imprisonment that may be imposed under this section.

(c) All penalties and fines recovered under this section shall be placed in the state treasury and credited to the Tennessee surface mine reclamation fund.

**History.**

Acts 1984, ch. 837, § 6; 1987, ch. 251, § 4; 1989, ch. 591, § 77; T.C.A. § 59-8-352; Acts 2021, ch. 548, § 8.

**Amendments.**

The 2021 amendment deleted (a)(1) which read: "Mines more than twenty-five (25) tons of coal within twelve (12) successive calendar months, regardless of the size of the mine site, without obtaining a permit for such mine from the commissioner or the primary regulatory authority pursuant to 30 U.S.C. § 1201 et seq."

**Effective Dates.**

Acts 2021, ch. 548, § 17. May 26, 2021.

## 59-8-307. [Repealed.]

**History.**

Acts 1984, ch. 837, § 6; 1987, ch. 251, § 5; T.C.A. § 59-8-354; repealed by Acts 2021, ch. 548, § 8, effective May 26, 2021.

**Compiler's Notes.**

Former § 59-8-307 concerned permits.

## 59-8-308. Commissioner and personnel — Powers.

The commissioner has the authority to:

(1) Employ and commission qualified persons as provided in § 11-1-101; and

(2) Make such investigations or inspections as are necessary to ensure compliance with any provisions of this part, including the right to enter at any time upon a suspected affected area or affected area for such purposes and the right of ingress and egress across intervening properties.

**History.**

Acts 1984, ch. 837, § 8; T.C.A. § 59-8-355; Acts 2021, ch. 135, § 3; 2021, ch. 548, § 9.

**Amendments.**

The 2021 amendment by ch. 135 rewrote (1) which read: "(1) Employ and commission qualified persons as surface mine reclamation personnel. When properly qualified and commissioned, such personnel shall be vested with such authority as is necessary to enforce all laws, regulations, permits, and orders administered by the department, including the issuance of service of process and shall have the right to carry firearms or other arms while on duty;".

The 2021 amendment by ch. 548 substituted "individuals" for "persons" in (1) and "this part" for "§§ 59-8-304 — 59-8-309" in (2).

**Effective Dates.**

Acts 2021, ch. 135, § 5. April 13, 2021.

Acts 2021, ch. 548, § 17. May 26, 2021.

# PART 4

# COAL SURFACE MINING ACT OF 1987 [REPEALED]

## 59-8-401 — 59-8-421. [Repealed.]

**History.**
Acts 1987, ch. 251, §§ 1, 6–25; 1992, ch. 693, § 1; 2018, ch. 839, §§ 7–12; 2021, ch. 135, § 4; repealed by Acts 2021, ch. 548, § 10, effective May 26, 2021.

Former part 4, §§ 59-8-401 – 59-8-421 concerned the Coal Surface Mining Act of 1987.

# CHAPTER 10

# INTERSTATE MINING COMPACT

Section
59-10-102. Board of reclamation review to be advisory body.

## 59-10-102. Board of reclamation review to be advisory body.

The Tennessee board of water quality, oil, and gas, created by § 69-3-104, shall be the advisory body referred to in Article V(a) of the Interstate Mining Compact. Any duties of any member of the board relating to the compact are official duties of the board within the meaning of § 69-3-105.

**History.**
Acts 1973, ch. 109, § 2; T.C.A., § 58-1802; Acts 2021, ch. 548, §§ 11, 12.

**Amendments.**
The 2021 amendment substituted "board of water quality, oil, and gas, created by § 69-3-104," for "board of water quality, oil and gas, established by § 59-8-321, the 'Tennessee Surface Mining Law,'" and substituted "meaning of § 69-3-105" for "meaning of § 59-8-321".

**Effective Dates.**
Acts 2021, ch. 548, § 17. May 26, 2021.

# CHAPTER 12

# MINE RESCUE OPERATIONS [REPEALED]

Section
59-12-101 — 59-12-108. [Repealed.]

## 59-12-101 — 59-12-108. [Repealed.]

**History.**
Acts 1979, ch. 368, §§ 1-6, 8; T.C.A., §§ 58-1701 – 58-1707; Acts 1985, ch. 288, §§ 39-42; 1992, ch. 574, § 9; 1996, ch. 751, § 1; 1999, ch. 520, § 43; repealed by Acts 2019, ch. 168, § 1, effective April 18, 2019.

**Compiler's Notes.**
Former chapter 12 §§ 59-12-101 – 59-12-108 concerned mine rescue operations.

# TITLE 60

# OIL AND GAS

Chapter
1. Production of Oil and Gas.
   Part 1. General Provisions
   Part 4. Violations
   Part 5. Mineral Test Hole Regulatory Act

# CHAPTER 1

# PRODUCTION OF OIL AND GAS

Part 1. General Provisions

Section
60-1-101. Chapter definitions.

Part 4. Violations

60-1-401. Violations — Penalties — Notice — Appeals — Hearing.
60-1-404. Tennessee board of water quality, oil and gas reclamation fund.

Part 5. Mineral Test Hole Regulatory Act

60-1-503. Part definitions.

# PART 1

# GENERAL PROVISIONS

## 60-1-101. Chapter definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the Tennessee board of water quality, oil and gas created by § 69-3-104;

(2) "Casinghead gas" means any gas or vapor, or both, indigenous to an oil stratum and produced from such stratum with oil. It shall be treated as gas, if sold, for the purpose of paying privilege tax;

(3) "Condensate" means liquid hydrocarbons that were in the gaseous phase in the reservoir in initial reservoir conditions. It shall be treated as oil for the purpose of paying privilege tax;

(4) "Field" means the general area which is underlain or appears to be underlain by at least one pool and including the pool or pools beneath the area;

(5) "Gas" means all natural gas and all other fluid hydrocarbons not defined as oil, including condensate because it originally was in a gaseous phase in the reservoir;

(6) "Oil" means crude petroleum that was originally in an oil phase in the reservoir;

(7) "Operator" means any person who owns or is directly responsible for a business involved in some phase of the production, manufacture, refining or

distribution of petroleum oil or natural gas;

(8) "Owner" means the person who has the right to drill into and to produce from any pool, and to appropriate the production for such person or others;

(9) "Person" means any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind;

(10) "Pool" means an underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of the general structure which is completely separated from any other zone in the structure is covered by the term "pool" as used in this chapter;

(11) "Producer" means the owner of a well or wells capable of producing oil or gas, or both, in paying quantities;

(12) "Supervisor" means the commissioner of environment and conservation or the commissioner's designee; and

(13) "Waste," in addition to its ordinary meaning, means "physical waste" as that term is generally understood in the oil and gas industry. It includes:

(A) Underground waste and inefficient, excessive, or improper use or dissipation of reservoir energy, including gas energy and water drive, of any pool; and the locating, spacing, drilling, equipping, operating, or producing of any oil well or gas ultimately recoverable from any pool; and

(B) Surface waste and the inefficient storing of oil and the locating, spacing, drilling, equipping, operating or producing of oil wells or gas wells in a manner causing or tending to cause unnecessary or excessive surface loss or destruction of oil or gas.

**History.**

Acts 1943, ch. 64, § 3; C. Supp. 1950, § 5240.3; Acts 1971, ch. 280, § 1; 1978, ch. 791, § 5; T.C.A. (orig. ed.), § 60-101; Acts 1992, ch. 693, § 21; 2012, ch. 986, § 29; 2018, ch. 839, § 14.

**Compiler's Notes.**

Acts 2021, ch. 548, § 1 repealed act sections 1-43 of chapter 839 of the Public Acts of 2018. That act had provided for the contingent amendment of this section; however, that amendment did not take effect.

# PART 4

# VIOLATIONS

## 60-1-401. Violations — Penalties — Notice — Appeals — Hearing.

(a) The Tennessee board of water quality, oil and gas through the supervisor shall have the authority to assess monetary penalties as provided in subsections (c)-(e) for any violation of this chapter, rules and regulations, or any order adopted by the board. In making such assessment, the board shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the operator charged, the gravity of the violation, the good faith of the operator, and the operator's history of previous violations.

(b) If, upon an inspection or investigation, the supervisor or any of the supervisor's authorized personnel shall determine that any operator is not in compliance with any standard or regulation or rule or order of the board promulgated by the board pursuant to this chapter, the supervisor shall with reasonable promptness and in no event later than six (6) months following the

inspection, issue to the operator by certified mail a written citation that states the nature and, if appropriate, the location of the violation, including a reference to the provision of the chapter and the regulation alleged to have been violated. In addition, the citation shall fix a reasonable time for abatement of the violation. If the issuing supervisor has reason to believe that such violation, or the failure to abate such violation, should result in the assessment of a penalty under subsections (c)-(e), the citation may so state.

(c) Any operator who has received a citation for a violation of this chapter, rules and regulations or order of the board, promulgated pursuant to this chapter and has failed to correct such violation within the period of correction of this citation, shall be assessed a penalty of up to one thousand dollars ($1,000) for each day the violation exists. The period of correction may be suspended or lengthened by the assessing party upon a showing by the operator of a good faith effort to comply with the correction requirements and that failure to comply with the correction requirements is due to factors beyond the operator's reasonable control.

(d) Any operator who has received a citation for a violation of this chapter, or rules and regulations or order of the board, and such violation is specifically determined not to be of a serious nature, may be assessed a penalty of up to one thousand dollars ($1,000) for each such violation.

(e) Any operator who willfully or repeatedly violates the requirements of this chapter, or rules and regulations, or order of the board promulgated pursuant to this chapter may be assessed a penalty of up to ten thousand dollars ($10,000) for each violation.

(f) Penalties provided for by subsections (c)-(e) shall be imposed in the manner hereinafter provided. Whenever the Tennessee board of water quality, oil and gas, through the supervisor, has determined that such a penalty should be assessed against an operator, a written notice and assessment of a penalty shall be issued to the operator by certified mail, return receipt requested, stating the amount of the penalty to be assessed and the reason therefor (which may be done by reference to citations issued prior to or simultaneously with such notification).

(g) Any citation or notice and assessment of a penalty issued pursuant to this section shall inform the operator of the operator's right to appeal such citation or assessment of a penalty to the Tennessee board of water quality, oil and gas. Any such citation or assessment of a penalty shall become final twenty (20) days after the receipt of such citation or notice and assessment of penalty by the operator unless the operator, within the period of twenty (20) days, shall file a written notice of appeal with the supervisor.

(h) If the operator files an appeal of such citation or assessment of a penalty as provided by subsection (g), the proceedings on such appeal shall be conducted as a contested case and shall be heard before an administrative judge sitting alone pursuant to §§ 4-5-301(a)(2) and 4-5-314(b), unless settled by the parties. The administrative judge to whom the case has been assigned shall convene the parties for a scheduling conference within thirty (30) days of the date the appeal is filed. The scheduling order for the contested case issued by the administrative judge shall establish a schedule that results in a hearing being completed within one hundred eighty (180) days of the scheduling

conference, unless the parties agree to a longer time or the administrative judge allows otherwise for good cause shown, and an initial order being issued within sixty (60) days of completion of the record of the hearing. The administrative judge's initial order, together with any earlier orders issued by the administrative judge, shall become final unless appealed to the board by the commissioner or other party within thirty (30) days of entry of the initial order or, unless the board passes a motion to review the initial order pursuant to § 4-5-315, within the longer of thirty (30) days or seven (7) days after the first board meeting to occur after entry of the initial order. Upon appeal to the board by a party, or upon passage of a motion of the board to review the administrative judge's initial order, the board shall afford each party an opportunity to present briefs, shall review the record and allow each party an opportunity to present oral argument. If appealed to the board, the review of the administrative judge's initial order shall be limited to the record, but shall be de novo with no presumption of correctness. In such appeals, the board shall thereafter render a final order, in accordance with § 4-5-314, affirming, modifying, remanding, or vacating the supervisor's citation or assessment of a penalty. A final order rendered pursuant to this section is effective upon its entry, except as provided in § 4-5-320(b) unless a later effective date shall be stated therein. A petition to stay the effective date of a final order may be filed under § 4-5-316. A petition for reconsideration of a final order may be filed pursuant to § 4-5-317. Judicial review of a final order may be sought by filing a petition for review in accordance with § 4-5-322. An order of an administrative judge that becomes final in the absence of an appeal or review by the board shall be deemed to be a decision of the board in that case for purposes of the standard of review by a court; provided, however, that in other matters before the board, it may be considered but shall not be binding on the board.

**History.**

Acts 1978, ch. 791, § 1; T.C.A., § 60-113; Acts 1984, ch. 700, §§ 1, 2; 2007, ch. 362, § 8; 2013, ch. 181, § 1.

**Compiler's Notes.**

Acts 2021, ch. 548, § 1 repealed act sections 1-43 of chapter 839 of the Public Acts of 2018. That act had provided for the contingent amendment of this section; however, that amendment did not take effect.

## 60-1-404. Tennessee board of water quality, oil and gas reclamation fund.

(a) All sums received in payment of penalties assessed by the board pursuant to this part shall be placed in the state treasury in a separate account to be designated as the Tennessee board of water quality, oil and gas reclamation fund.

(b) This fund shall be available to the board for expenditure for site protection and reclamation work on land and waters damaged by surface disturbances. The fund may be expended for such work following default and notice of forfeiture of bond, if the bond furnished by the operator is not sufficient to cover the cost of reclamation. It may also be expended for such work if the operations which caused the damage were not covered by the bond, including operations conducted before January 1, 1988.

(c) This fund shall also be available to the board for expenditure for the plugging of dry or abandoned wells. The fund may be expended for such work, following default and notice of forfeiture, if the bond furnished by the operator is not sufficient to cover the cost of plugging. It also may be expended to plug dry or abandoned wells not covered by a bond, including wells drilled before January 1, 1988.

(d) Any unencumbered or unexpended balance of this fund remaining at the end of any fiscal year together with any interest earned thereon shall not revert to the general fund, but shall be carried forward until expended for the purpose of site protection and reclamation or the plugging of dry or abandoned wells, as provided in this section.

**History.**
Acts 1987, ch. 257, § 4; 2007, ch. 362, § 9; 2013, ch. 94, § 1; 2018, ch. 839, § 16.

**Compiler's Notes.**
Acts 2021, ch. 548, § 1 repealed act sections 1-43 of chapter 839 of the Public Acts of 2018. That act had provided for the contingent amendment of this section; however, that amendment did not take effect.

# PART 5

# MINERAL TEST HOLE REGULATORY ACT

## 60-1-503. Part definitions.

As used in this part, unless the context otherwise requires:

(1) "Board" means the Tennessee board of water quality, oil and gas;

(2) "For exploratory purposes" means drilling of mineral test holes for the specific purpose of exploring for mineral resources;

(3) "Mineral" means any substance with economic value whether organic or inorganic that can be extracted from the earth, but excluding oil and gas;

(4) "Mineral test hole" means any hole in excess of one hundred feet (100′) drilled during the exploration for minerals but excludes auger drilling in surficial or otherwise unconsolidated material, drilling in conjunction with mining or quarrying operations, drill holes for the exploration of oil and/or gas, water, structural foundations, and seismic surveys;

(5) "Natural brine" means naturally occurring mineralized water other than potable or fresh water;

(6) "Operator" means the person, whether owner or not, supervising or responsible for drilling, operating, repairing, abandoning or plugging of mineral test holes subject to this part;

(7) "Owner" means the person who has or attains the right to drill, convert or operate any mineral test hole subject to this part;

(8) "Person" means any individual, corporation, company, association, joint venture, partnership, receiver, trustee, guardian, executor, administrator, personal representative or private organization of any kind;

(9) "Pollution" means such alteration of the physical, chemical, biological, bacteriological, or radiological properties of the waters, soils, animal, fish and aquatic life or surface property of this state as will:

(A) Result or will likely result in harm, potential harm, or detriment to the public health, safety, or welfare;

(B) Result or will likely result in harm, potential harm, or detriment to the health of animals, birds, fish, or aquatic life;

(C) Render or will likely render the waters, soils, animal, fish and aquatic life or surface property substantially less useful for domestic, municipal, industrial, agricultural, recreational, or other reasonable uses; or

(D) Leave or will likely leave the waters in such condition as to violate any standards of water quality established by the Tennessee board of water quality, oil and gas; and

(10) "Supervisor" means the commissioner or the commissioner's designee.

**History.**

Acts 1982, ch. 654, § 4; 1992, ch. 693, § 23; 2018, ch. 839, §§ 17, 18.

**Compiler's Notes.**

Acts 2021, ch. 548, § 1 repealed act sections 1-43 of chapter 839 of the Public Acts of 2018. That act had provided for the contingent amendment of this section; however, that amendment did not take effect.

# TITLE 61

# PARTNERSHIPS

Chapter
1. Revised Uniform Partnership Act.
   Part 1. General Provisions
   Part 10. Limited Liability Partnership
2. Revised Uniform Limited Partnership Act.
   Part 2. Certificate of Limited Partnership
   Part 11. Filing with Secretary of State
   Part 12. Miscellaneous
3. Tennessee Uniform Limited Partnership Act of 2017.
   Part 2. Formation — Certificate of Limited Partnership and Filings
   Part 10. Foreign Limited Partnerships

# CHAPTER 1

# REVISED UNIFORM PARTNERSHIP ACT

Part 1. General Provisions

Section
61-1-105. Execution, filing, and recording of statements.

Part 10. Limited Liability Partnership

61-1-1001. Application process — Registered limited liability partnership.

# PART 1

# GENERAL PROVISIONS

## 61-1-101. Chapter definitions.

### NOTES TO DECISIONS

**2. Evidence of Partnership.**

Despite a lengthy delay in the collection of a debt there was no implied partnership between an attorney and a debtor because the attorney provided legal services and submitted bills for those services to the debtor. The attorney's understanding of the attorney's relationship with the debtor and the debtor's development project was that the attorney was a creditor, not a partner, and the attorney understood that any disbursement of sale proceeds or operational profits that the attorney might receive was for payment of the attorney's services. In re River City Resort, — B.R. —, 2021 Bankr. LEXIS 310 (Bankr. E.D. Tenn. Feb. 9, 2021).

## 61-1-103. Effect of partnership agreement — Nonwaivable provisions.

### NOTES TO DECISIONS

**1. Death of Partner.**

Because a partnership agreement was silent on how to value a deceased partner's interest, the Tennessee Revised Uniform Partnership Act, T.C.A. § 61-1-101 et seq., governed and the buyout price was based on the amount that would have been distributed if a winding up of the partnership business had occurred on the date of the partner's death and the assets of the partnership were sold at a price equal to the

greater of the liquidation value or the value based on a sale of the entire business as a going concern without the partner. Butler v. KBK Outdoor Adver., — S.W.3d —, 2020 Tenn. App. LEXIS 590 (Tenn. Ct. App. Dec. 22, 2020).

## 61-1-104. Supplemental principles of law.

### NOTES TO DECISIONS

**1. Implid Partnerships.**

Revised Uniform Partnership Act does not preclude an existence of implied partnerships, and the statute provides that unless displaced by provisions of the Revised Uniform Partnership Act, the principles of law and equity supplement this chapter; as such, the common law principles of law and equity still apply concerning whether an implied partnership has been formed. This was certainly so when plaintiffs in this case alleged and submitted evidence that the implied partnership came into existence prior to the adoption of the Revised Uniform Partnership Act. Story v. Meadows, — S.W.3d —, 2020 Tenn. App. LEXIS 591 (Tenn. Ct. App. Dec. 22, 2020).

## 61-1-105. Execution, filing, and recording of statements.

(a) A statement may be filed in the office of the secretary of state. A certified copy of a statement that is filed in an office in another state may be filed in the office of the secretary of state in the manner and form prescribed by the secretary of state. Either filing has the effect provided in this chapter with respect to partnership property located, or transactions that occur, in this state.

(b) A certified copy of a statement that has been filed in the office of the secretary of state and recorded in the office of the register of deeds has the effect provided for recorded statements in this chapter. A recorded statement that is not a certified copy of a statement filed in the office of the secretary of state does not have the effect provided for recorded statements in this chapter.

(c) A statement filed by a partnership must be executed by at least two (2) partners. Other statements must be executed by a partner or other person authorized by this chapter. An individual who executes a statement as, or on behalf of, a partner or other person named as a partner in a statement shall personally declare under penalty of perjury that the contents of the statement are accurate.

(d) A person authorized by this chapter to file a statement may amend or cancel the statement by filing an amendment or cancellation that names the partnership, identifies the statement, and states the substance of the amendment or cancellation.

(e) A person who files a statement pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person does not limit the effectiveness of the statement as to a person not a partner.

**History.**

Acts 2001, ch. 353; 2020, ch. 719, § 24.

**Amendments.**

The 2020 amendment, in (a), inserted "in the manner and form prescribed by the secretary of state." in the second sentence, and substituted "located, or transactions that occur," for "located in or transactions that occur" in the third sentence.

**Effective Dates.**

Acts 2020, ch. 719, § 35, June 22, 2020.

# PART 2

# NATURE OF PARTNERSHIP

## 61-1-201. Partnership as entity.

### NOTES TO DECISIONS

**1. Implid Partnerships.**

Revised Uniform Partnership Act does not preclude an existence of implied partnerships, and the statute provides that unless displaced by provisions of the Revised Uniform Partnership Act, the principles of law and equity supplement this chapter; as such, the common law principles of law and equity still apply concerning whether an implied partnership has been formed. This was certainly so when plaintiffs in this case alleged and submitted evidence that the implied partnership came into existence prior to the adoption of the Revised Uniform Partnership Act. Story v. Meadows, — S.W.3d —, 2020 Tenn. App. LEXIS 591 (Tenn. Ct. App. Dec. 22, 2020).

## 61-1-202. Formation of partnership.

### NOTES TO DECISIONS

**2. Partnership Not Established.**

No partnership legally resulted from an earnout provision because the provision was directed at calculating part of the consideration owed under a Membership Interest Purchase Agreement. Therefore, even assuming the calculation was considered to involve a sharing of profits, no presumption of a partnership between business entities legally arose. Popularcategories.com, Inc. v. Gerregano, — S.W.3d —, 2018 Tenn. App. LEXIS 747 (Tenn. Ct. App. Dec. 20, 2018).

Despite a lengthy delay in the collection of a debt there was no implied partnership between an attorney and a debtor because the attorney provided legal services and submitted bills for those services to the debtor. The attorney's understanding of the attorney's relationship with the debtor and the debtor's development project was that the attorney was a creditor, not a partner, and the attorney understood that any disbursement of sale proceeds or operational profits that the attorney might receive was for payment of the attorney's services. In re River City Resort, — B.R. —, 2021 Bankr. LEXIS 310 (Bankr. E.D. Tenn. Feb. 9, 2021).

# PART 3

# RELATIONS OF PARTNERS TO PERSONS DEALING WITH PARTNERSHIP

## 61-1-306. Partner's liability.

### NOTES TO DECISIONS

**1. Applicability.**

Plaintiffs did not deny that individuals were partners, or assert that they did not have an interest in the partnership; the individuals were found to be partners and thus liable for partnership obligations and the trial court did not err by substituting the partnership and its partners as plaintiffs following the trial on damages. Bop, LLC v. Plastic Surgery of Nashville, P.C., — S.W.3d —, 2020 Tenn. App. LEXIS 447 (Tenn. Ct. App. Oct. 8, 2020).

# PART 4

# RELATIONS OF PARTNERS TO EACH OTHER AND TO PARTNERSHIP

## 61-1-403. Partner's rights and duties with respect to information.

### NOTES TO DECISIONS

**1. Duties.**

Appellants' plan to sue appellee, because it could result and had resulted in liability to the partnership, imposed an obligation on appellants to state their plans as per the duties set forth in the partnership agreement and statutes. King v. Chase, — S.W.3d —, 2021 Tenn. App. LEXIS 104 (Tenn. Ct. App. Mar. 17, 2021).

## 61-1-404. General standards of partner's conduct.

### NOTES TO DECISIONS

**1. Duties.**

Appellants' plan to sue appellee, because it could result and had resulted in liability to the partnership, imposed an obligation on appellants to state their plans as per the duties set forth in the partnership agreement and statutes. King v. Chase, — S.W.3d —, 2021 Tenn. App. LEXIS 104 (Tenn. Ct. App. Mar. 17, 2021).

# PART 6

# PARTNER'S DISSOCIATION

## 61-1-601. Events causing partner's dissociation.

### NOTES TO DECISIONS

**1. Withdrawal of Partner.**

Because a partnership agreement was silent on how to value a deceased partner's partnership interest, the buyout price was determined based on the amount that would have been distributed to the deceased partner if a winding up of the partnership business had occurred on the date of the partner's death and the assets of the partnership were sold at a price equal to the greater of the liquidation value or the value based on a sale of the entire business as a going concern without the deceased partner. Butler v. KBK Outdoor Adver., — S.W.3d —, 2020 Tenn. App. LEXIS 590 (Tenn. Ct. App. Dec. 22, 2020).

# PART 7

# PARTNER'S DISSOCIATION WHEN BUSINESS NOT WOUND UP

## 61-1-701. Purchase of dissociated partner's interest.

### NOTES TO DECISIONS

**1. Distribution.**

Because a partnership agreement was silent on how to value a deceased partner's partnership interest, the buyout price was determined based on the amount that would have been distributed to the deceased partner if a winding up of the partnership business had occurred on the date of the partner's death and the assets of the partnership were sold at a price equal to the greater of the liquidation value or the value based on a sale of the entire business as a going concern without the deceased partner. Butler v. KBK Outdoor Adver., — S.W.3d —, 2020 Tenn. App. LEXIS 590 (Tenn. Ct. App. Dec. 22, 2020).

# PART 8

# WINDING UP PARTNERSHIP BUSINESS

## 61-1-801. Events causing dissolution and winding up of partnership business.

### NOTES TO DECISIONS

**2. Death of Partner.**

Because a partnership agreement was silent on how to value a deceased partner's partnership interest, the buyout price was determined based on the amount that would have been distributed to the deceased partner if a winding up of the partnership business had occurred on the date of the partner's death and the assets of the partnership were sold at a price equal to the greater of the liquidation value or the value based on a sale of the entire business as a going concern without the deceased partner. Butler v. KBK Outdoor Adver., — S.W.3d —, 2020 Tenn. App. LEXIS 590 (Tenn. Ct. App. Dec. 22, 2020).

# PART 10

# LIMITED LIABILITY PARTNERSHIP

## 61-1-1001. Application process — Registered limited liability partnership.

(a) To become a registered limited liability partnership, a partnership must file with the secretary of state an application stating the name of the partnership; the address of its principal office, and a mailing address such as a post office box if the United States postal service does not deliver to the principal office if the partnership's principal office is not located in this state; the address of a registered office and the name and address of a registered agent for service of process in this state, which the partnership is required to maintain; a brief statement of the business in which the partnership engages; other matters that the partnership determines to include; other information as required by the secretary of state; and that the partnership is applying for status as a registered limited liability partnership.

(b) The application must be executed by one (1) or more partners authorized to execute an application. The registration of a general partnership or limited partnership as a registered limited liability partnership must be approved by a majority of the partners or as otherwise provided in the partnership agreement, or in the case of a limited partnership, by all of the partners, notwithstanding any provision to the contrary in the limited partnership agreement, unless such limited partnership was formed after July 1, 1995, and the original agreement of limited partnership provided for a conversion or a procedure of conversion of the limited partnership to a registered limited liability partnership without the consent of all partners, in which case the approval or procedure under the original limited partnership agreement shall be sufficient.

(c) The application must be accompanied by a fee of fifty dollars ($50.00) for each partner on the date of filing, subject to a minimum of two hundred fifty dollars ($250) and a maximum of two thousand five hundred dollars ($2,500).

(d) The secretary of state shall register as a registered limited liability partnership any partnership that submits a completed application with the required fee.

(e) A partnership registered under this section shall pay, in each year following the year in which its application is filed, on a date specified by the secretary of state, an annual fee of fifty dollars ($50.00) for each partner on the date of filing, subject to a minimum of two hundred fifty dollars ($250) and a maximum of two thousand five hundred dollars ($2,500). The fee must be accompanied by a notice, on a form provided by the secretary of state, of any material changes in the information contained in the partnership's application for registration.

(f) A partnership becomes a registered limited liability partnership at the time of the filing of the application, or at a later time as is specified in the application, if there has been substantial compliance with this chapter. Registration remains effective until:

(1) The secretary of state files a written withdrawal statement or other similar document:

(A) Executed and submitted by one (1) or more partners authorized to execute a withdrawal statement, which shall be accompanied by a fee of twenty dollars ($20.00); and

(B) Accompanied by a tax clearance for termination confirmation of good standing by the department of revenue; or withdrawal relative to such registered limited liability partnership; or

(2) Sixty (60) days after the secretary of state mails to the partnership at its last address of record a notice that the partnership has failed to make timely payment of the annual fee specified in subsection (e), unless the fee is paid within the sixty-day period.

(g) The status of a partnership as a registered limited liability partnership and the liability of the partners of the partnership is not affected by:

(1) Errors in the information stated in an application under subsection (a) or a notice under subsection (e); or

(2) Changes after the filing of such an application or notice in the information stated in the application or notice.

(h) The secretary of state may require specific forms and filing methods for documents filed under this chapter.

(i) A partnership that registers as a registered limited liability partnership is not deemed to have dissolved as a result of such registration and is for all purposes the same partnership that existed before the registration and continues to be a partnership under the laws of this state.

(j) If a registered limited liability partnership dissolves and the business of the partnership is continued without winding up or liquidation of the partnership affairs, the partnership that continues the business of the dissolved partnership is a registered limited liability partnership and is not required to file a new application and is deemed to have filed any documents required or permitted under this chapter which were filed by the predecessor partnership.

(k) If a registered limited liability partnership dissolves and the business of the partnership is not continued, then during the wind up or liquidation period the partners of such partnership shall continue to be subject to § 61-1-306(c)-(f).

(*l*) If a partnership registers as a registered limited liability partnership, a partner (in the case of a general partnership), or a general partner (in the case of a limited partnership) remains liable for an obligation incurred by the partnership before the partnership registered as a registered limited liability partnership. The partner's liability for obligations and liabilities of the registered limited liability partnership incurred after registration is as provided in § 61-1-306.

(m) The fact that an application or notice is on file in the office of the secretary of state is notice that the partnership is a registered limited liability partnership and is notice of all other facts set forth in the application or notice.

(n) A registered limited liability partnership may amend its registration by filing with the secretary of state a statement of amendment containing the name of the partnership, the address of its principal office or registered office in this state, and the amendment. The statement of amendment shall be accompanied by a fee of twenty dollars ($20.00).

(o) The secretary of state may furnish, upon request and payment of a fee of twenty dollars ($20.00), a certificate of good standing indicating confirmation that a registered limited liability partnership is registered active and in good standing.

**History.**

Acts 1995, ch. 400, § 9; 1998, ch. 890, § 5; 2001, ch. 353; T.C.A., § 61-1-143; Acts 2009, ch. 354, § 1; 2010, ch. 741, § 49; 2014, ch. 783, § 19; 2017, ch. 440, § 2; 2018, ch. 575, §§ 36-40; 2020, ch. 719, §§ 25, 26.

**Amendments.**

The 2020 amendment, in (a), substituted a semicolon for a comma following "located in this state", substituted "partnership is required" for "partnership will be required", inserted "other information as required by the secretary of state;", and substituted "partnership is applying for status" for "partnership thereby applies for status"; and in (h), substituted "may require specific" for "may provide", inserted "and filing methods" and substituted "documents filed" for "an application" and "this chapter." for "subsection (a) or a notice under subsection (e)."

**Effective Dates.**

Acts 2020, ch. 719, § 35, June 22, 2020.

# PART 12

# MISCELLANEOUS PROVISIONS

## 61-1-1206. Applicability.

### NOTES TO DECISIONS

**1. Applicability.**

Because a partnership agreement was silent on how to value a dissociating partner's partnership interest, the Tennessee Revised Uniform Partnership Act, T.C.A. § 61-1-101 et seq., governed the valuation of a deceased partner's partnership interest even though the partnership was formed under the repealed Tennessee Uniform Partnership Act. Butler v. KBK Outdoor Adver., — S.W.3d —, 2020 Tenn. App. LEXIS 590 (Tenn. Ct. App. Dec. 22, 2020).

# CHAPTER 2

# REVISED UNIFORM LIMITED PARTNERSHIP ACT

Part 2. Certificate of Limited Partnership

Section
61-2-201. Execution and filing of certificate of limited partnership.

Part 11. Filing with Secretary of State

61-2-1101. Requirements generally.
61-2-1102. Forms.
61-2-1106. Filing procedure — Refusal — Effect.

Part 12. Miscellaneous

61-2-1207. Fees.

# PART 2

# CERTIFICATE OF LIMITED PARTNERSHIP

## 61-2-201. Execution and filing of certificate of limited partnership.

(a) In order to form a limited partnership, one (1) or more persons, but not less than all of the general partners, must execute a certificate of limited partnership. A certificate of limited partnership must be filed with the secretary of state, in the manner and form prescribed by the secretary of state, and set forth:

(1) The name of the limited partnership;

(2) The street address and zip code of the limited partnership's initial registered office, the county in which the office is located, and the name of its initial registered agent at that office as required to be maintained by § 61-2-104;

(3) The street address and zip code of the principal office of the limited partnership, and a mailing address such as a post office box if the United States postal service does not deliver to the principal office;

(4) The name and the business, residence, or mailing address of each general partner;

(5) Any other matters not inconsistent with the partnership agreement that the partners determined to include; and

(6) Any additional information required by the secretary of state.

(b) The partnership agreement shall not be filed.

(c) A limited partnership is formed at the time of the filing of the initial certificate of limited partnership with the secretary of state or at any later date or time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section. A limited partnership shall have a term of fifty (50) years unless the certificate of limited partnership provides otherwise.

**History.**

Acts 1988, ch. 922, § 1; 1989, ch. 270, § 10; 1997, ch. 38, § 1; 2014, ch. 783, § 22; 2020, ch. 719, § 27.

**Amendments.**

The 2020 amendment, in the second sentence of the introductory paragraph in (a), substituted "must" for "shall", and inserted ", in the manner and form prescribed by the secretary of state"; deleted the parentheses before "and a mailing" and after "principle office" in (a)(3); deleted "and" at the end of (a)(4); in (a)(5),

substituted "that" for "which" and "include; and" for "include therein;"; and added (a)(6).

**Effective Dates.**

Acts 2020, ch. 719, § 35. June 22, 2020.

# PART 11

# FILING WITH SECRETARY OF STATE

## 61-2-1101. Requirements generally.

(a) The form and filing of a document must satisfy the requirements of this section, and of all other applicable sections or rules that add to these requirements, to be entitled to filing by the secretary of state.

(b) Parts 1, 2, and 9 of this chapter must require or permit filing the documents with the secretary of state.

(c) The document must contain the information required by parts 1, 2, and 9 of this chapter and any information required by rules promulgated by the secretary of state. The document may contain other information as well.

(d) The document must be capable of being printed in ink in a clear and legible fashion on one (1) side of letter size paper.

(e) The document must be in the English language. A limited partnership's name need not be in English if written in English letters, or Arabic or Roman numerals.

(f) The person executing the document must sign it and state beneath or opposite the person's signature the person's name and the capacity in which the person signs.

(g) The document must be delivered to the office of the secretary of state for filing and must be accompanied by the correct filing fee, and any corporate tax, license fee, interest, or penalty required by part 12 of this chapter.

(h) The secretary of state may promulgate appropriate rules establishing acceptable methods for execution of any document to be filed with the secretary of state.

(i) All documents submitted to the secretary of state for filing shall contain a statement that makes it clear that the documents are being filed pursuant to the chapter.

**History.**

Acts 1988, ch. 922, § 1; 1989, ch. 270, § 78; 2011, ch. 99, § 29; 2020, ch. 719, § 28.

**Amendments.**

The 2020 amendment, in (a), inserted "The form and filing of", and substituted "all other applicable sections or rules that add to these requirements" for "any other section that adds to or varies these requirements"; inserted a comma following "2" in (b) and in the first sentence of (c), following "letters" in (e), and following "interest" in (g); in (c), inserted "any information required by rules promulgated by the secretary of state." at the end of the first sentence and substituted "The document may contain" for "It may contain" at the beginning of the second sentence; substituted "capable of being printed" for "typewritten or printed" in (d); substituted "limited partnership's" for "limited partnership" in the second sentence of (e); in (f), substituted "must" for "shall", twice substituted "the person's" for "his" and substituted "the person" for "he"; in (h), substituted "may" for "has the power to" and deleted "and regulations" following "rules"; and in (i), substituted "shall" for "should", "that makes" for "which makes" and "the documents" for "they".

**Effective Dates.**

Acts 2020, ch. 719, § 35, June 22, 2020.

## 61-2-1102. Forms.

The secretary of state may prescribe, and shall furnish upon request, forms for documents required or permitted to be filed by all chapters of this title. If the secretary of state has prescribed a mandatory form for the document, then the document must be in or on the prescribed form or a conformed copy thereof.

**History.**
Acts 1988, ch. 922, § 1; 2020, ch. 719, § 29.

**Amendments.**
The 2020 amendment substituted "prescribe, and shall furnish upon request, forms for documents" for "prescribe and shall furnish on request forms for all documents", inserted "all chapters of", substituted "title. If the secretary of state has prescribed a mandatory" for "chapter, but their use is not mandatory" and inserted "form for the document, then the document must be in or on the prescribed form or a conformed copy thereof."

**Effective Dates.**
Acts 2020, ch. 719, § 35, June 22, 2020.

## 61-2-1106. Filing procedure — Refusal — Effect.

(a) If a document delivered to the office of the secretary of state for filing satisfies the requirements of § 61-2-1101, the secretary of state shall file it.

(b) The secretary of state files a document by stamping or otherwise endorsing "Filed," together with his name and official title and the date and time of receipt, on such document. After filing a document, the secretary of state shall deliver the document, with the filing fee receipt (or acknowledgement of receipt if no fee is required) attached, to the domestic or foreign limited partnership or its representative in due course. A domestic or foreign limited partnership or its representative may present to the secretary of state an exact or conformed copy of the document presented for filing, together with such document, and, in that event, the secretary of state shall stamp or otherwise endorse the exact or conformed copy filed, together with his name and official title and the date and time of receipt, and immediately return the exact or conformed copy to the party filing the original of such document.

(c) If the secretary of state refuses to file a document, he shall return it to the domestic or foreign limited partnership or its representative within a reasonable time after the document was received for filing, together with a brief, written explanation of the reason for his refusal.

(d) The secretary of state's duty to file documents under this section is ministerial. His filing or refusing to file a document does not:

(1) Affect the validity or invalidity of the document in whole or in part;

(2) Relate to the correctness or incorrectness of information contained in the document;

(3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect; or

(4) Establish that a document purporting to be an exact or conformed copy pursuant to subsection (b) is an exact or conformed copy.

(e) Any limited partnership document that meets the requirements of parts 1, 2, and 9 of this chapter for filing and recording, and all applicable rules, must be received, filed, and recorded by the appropriate office, notwithstanding any contrary requirements found in any other laws of this state.

**History.**

Acts 1988, ch. 922, § 1; 2020, ch. 719, § 30.

**Amendments.**

The 2020 amendment, in (e), substituted "that meets" for "which meets", inserted a comma following "2" and following "filed", and substituted "and recording, and all applicable rules, must be received," for "and recording shall be received,".

**Effective Dates.**

Acts 2020, ch. 719, § 35, June 22, 2020.

# PART 12

# MISCELLANEOUS

## 61-2-1207. Fees.

(a) The secretary of state shall collect the following fees when the documents described in this subsection (a) are delivered to the secretary of state for filing:

| Document | Fee |
|---|---|
| (1) Application for use of indistinguishable name | $20.00 |
| (2) Application for reservation of limited partnership name | 20.00 |
| (3) Notice of transfer of reserved name | 20.00 |
| (4) Notice of cancellation of reserved name | 20.00 |
| (5) Statement of change of registered agent/office (by domestic/foreign limited partnership) | 20.00 |
| (6) Statement of change of registered office of limited partnership (by agent) | 5.00 per limited partnership, but not less than 20.00 |
| (7) Statement of resignation of registered agent for limited partnership | 20.00 |
| (8) Certificate of limited partnership (including designation of initial registered office and agent) | 100.00 |
| (9) Amendment to the certificate of limited partnership | 20.00 |
| (10) Certificate of cancellation of limited partnership | 20.00 |
| (11) Restated certificate of limited partnership | 20.00 |
| (12) Amended and restated certificate of limited partnership | 20.00 |
| (13) Certificate of merger of limited partnership | 100.00 |
| (14) Application for registration of foreign limited partnership (including designation of initial registered office and agent) | 600.00 |
| (15) Application for amended registration of foreign limited partnership | 20.00 |
| (16) Certificate of cancellation of registration of foreign limited partnership | 20.00 |
| (17) Certificate of correction | 20.00 |
| (18) Execution, amendment or cancellation of limited partnership by judicial order | No Fee |
| (19) Application for certificate of existence or registration of limited partnership | 20.00 |

(20) Any other document required or permitted to be filed by chapter 2 of this title.....20.00

(b) The secretary of state shall collect a fee of twenty dollars ($20.00) each time process is served on the secretary of state under chapter 2 of this title. The party to a proceeding causing service of process is entitled to recover this fee as costs if such party prevails in the proceeding.

(c) The secretary of state shall collect a fee of twenty dollars ($20.00) for copying all filed documents relating to a domestic or foreign limited partnership. All such copies will be certified or validated by the secretary of state.

**History.**
Acts 1988, ch. 922, § 1; 1989, ch. 270, §§ 84, 87; 1998, ch. 890, § 4; 2000, ch. 568, § 5; 2010, ch. 742, § 13.

**Compiler's Notes.**
This section is set out to correct the text of subdivision (a)(11).

# CHAPTER 3

# TENNESSEE UNIFORM LIMITED PARTNERSHIP ACT OF 2017

Part 2. Formation — Certificate of Limited Partnership and Filings

Section
61-3-206. Filing requirements.
61-3-211. Annual report for secretary of state.

Part 10. Foreign Limited Partnerships

61-3-1003. Registration.

## PART 2

## FORMATION — CERTIFICATE OF LIMITED PARTNERSHIP AND FILINGS

### 61-3-206. Filing requirements.

(a) To be filed by the secretary of state pursuant to this chapter, a record must be received by the secretary of state, comply with this chapter, and satisfy the following:

(1) The filing of the record must be required or permitted by this chapter;

(2) The record must be physically delivered in written form unless and to the extent the secretary of state permits or requires electronic delivery of the record;

(3) The words in the record must be in English, and numbers must be in Arabic or Roman numerals, but the name of an entity need not be in English if written in English letters, or Arabic or Roman numerals;

(4) The record must be signed by a person authorized or required under this chapter to sign the record; and

(5) The record must state the name and capacity, if any, of each individual who signed it, either on behalf of the individual or the person authorized or required to sign the record, but need not contain a seal, attestation, acknowledgment, or verification.

(b) If law other than this chapter prohibits the disclosure by the secretary of state of information contained in a record delivered to the secretary of state for filing, then the secretary of state must file the record if the record otherwise complies with this chapter but may redact the information.

(c) When a record is delivered to the secretary of state for filing, any fee required under this chapter and any fee, tax, interest, or penalty required to be paid under this chapter or law other than this chapter must be paid in a manner permitted by the secretary of state or by that law.

(d) The secretary of state may require that a record delivered in written form be accompanied by an exact or conformed copy.

(e) The secretary of state may provide forms for filings required or permitted to be made by this chapter and may, by rule, require their use.

(f) The secretary of state may require that a cover sheet for a filing be on a form prescribed by the secretary of state.

(g) The secretary of state may promulgate appropriate rules establishing acceptable methods for execution of any document to be filed with the secretary of state.

**History.**
Acts 2017, ch. 440, § 1; 2020, ch. 719, § 31.

**Amendments.**
The 2020 amendment deleted "must" following "secretary of state," in the introductory paragraph of (a); inserted "or requires" in (a)(2); inserted a comma following "letters" in (a)(3); inserted "then" in (b); substituted "accompanied by an exact" for "accompanied by an identical" in (d); substituted "and may, by rule, require their use" for ", but, except as otherwise provided in subsection (f), their use is not required" in (e); and substituted "may" for "has the power to" in (g).

**Effective Dates.**
Acts 2020, ch. 719, § 35, June 22, 2020.

## 61-3-211. Annual report for secretary of state.

(a) A limited partnership or registered foreign limited partnership shall deliver to the secretary of state for filing an annual report that states:

(1) The name of the limited partnership or foreign limited partnership;

(2) The name of its registered agent in this state;

(3) The street address and zip code of its registered office and the name of its registered agent at that office in this state;

(4) The name of at least one (1) general partner; and

(5) In the case of a foreign limited partnership, its jurisdiction of formation and any alternate name adopted under § 61-3-1006(a).

(b) Information in the annual report must be current as of the date the report is signed by the limited partnership or registered foreign limited partnership.

(c) Every limited partnership and registered foreign limited partnership shall file the annual report with the secretary of state on or before the first day of the fourth month following the close of the limited partnership's or registered foreign limited partnership's fiscal year or upon a date set by rule by the secretary of state.

(d) If an annual report does not contain the information required by this section, the secretary of state must promptly notify the reporting limited partnership or registered foreign limited partnership in a record and return the report for correction.

(e) If an annual report contains the name or address of a registered agent that differs from the information shown in the records of the secretary of state immediately before the report becomes effective, the differing information is considered a statement of change under § 61-3-116.

(f) If an annual report contains a street or mailing address for the principal office that differs from the information shown in the records of the secretary of state immediately before the report becomes effective, the differing information is considered a statement of change under § 61-3-116.

**History.**
Acts 2017, ch. 440, § 1; 2018, ch. 575, § 8; 2020, ch. 719, § 32.

**Amendments.**
The 2020 amendment, in (c), substituted "of the limited partnership's" for "of the limited partnership" and inserted "or upon a date set by rule by the secretary of state".

**Effective Dates.**
Acts 2020, ch. 719, § 35, June 22, 2020.

# PART 10

# FOREIGN LIMITED PARTNERSHIPS

## 61-3-1003. Registration.

(a) To register to do business in this state, a foreign limited partnership must submit to the secretary of state:

(1) An original copy executed by a general partner of an application for registration as a foreign limited partnership, setting forth:

(A) The name of the foreign limited partnership and, if different, the name under which the foreign limited partnership proposes to register and do business in this state;

(B) The jurisdiction where organized, the date of the foreign limited partnership's organization and a statement from a general partner that, as of the date of filing, the foreign limited partnership validly exists as a limited partnership under the laws of the jurisdiction of the foreign limited partnership's organization;

(C) The street address and zip code of the foreign limited partnership's registered office in this state, and a mailing address such as a post office box if the United States postal service does not deliver to the principal office; the county in which that office is located; and the name of the foreign limited partnership's registered agent at that office;

(D) The street address, including the zip code, of the foreign limited partnership's principal office, and a mailing address such as a post office box if the United States postal service does not deliver to the principal office;

(E) The name and business, residence, or mailing address and zip code of each of the general partners;

(F) The date on which the foreign limited partnership first did, or intends to do, business in this state; and

(G) Any additional information required by the secretary of state;

(2) With the completed application, a certificate of existence, or a document of similar import, duly authenticated by the secretary of state or other

official having custody of limited partnership records in the jurisdiction under whose law it is formed. The certificate must not bear a date of more than two (2) months prior to the date the application is filed in this state; and

(3) A fee as set forth in § 61-3-1205.

(b) If the secretary of state determines upon registration that a foreign limited partnership has been doing business in this state for a period of one (1) year or more prior to applying for registration, then the secretary of state must not file the registration until the foreign limited partnership submits a letter of good standing from the department of revenue.

**History.**

Acts 2017, ch. 440, § 1; 2018, ch. 575, § 13; 2020, ch. 719, § 33.

**Amendments.**

The 2020 amendment deleted "and" from the end of (a)(1)(E); added "and" to the end of (a)(1)(F); and added (a)(1)(G).

**Effective Dates.**

Acts 2020, ch. 719, § 35, June 22, 2020.